

# Reproductive Rights are Human Rights



The Center for Reproductive Rights uses the law to advance reproductive freedom as a fundamental right that all governments are legally obligated to protect, respect and fulfill. Using international human rights law to advance the reproductive freedom of women, the Center has strengthened reproductive health laws and policies across the globe by working with more than 100 organizations in 45 nations including countries in Africa, Asia, East Central Europe, and Latin America and the Caribbean.

[www.reproductiverights.org](http://www.reproductiverights.org)

**CENTER  
FOR  
REPRODUCTIVE  
RIGHTS**



# *Reproductive Rights are Human Rights*

*[www.reproductiverights.org](http://www.reproductiverights.org)*

*Fourth Edition*

## **2 *Reproductive Rights are Human Rights***

**Ten Human Rights Key to Reproductive Rights**

1. The Right to Life, Liberty, and Security 9
2. The Right to Health, Reproductive Health, and Family Planning 12
3. The Right to Decide the Number and Spacing of Children 20
4. The Right to Consent to Marriage and to Equality in Marriage 22
5. The Right to Privacy 25
6. The Right to be Free From Discrimination on Specified Grounds 28
7. The Right to be Free From Practices that Harm Women and Girls 35
8. The Right to Not be Subjected to Torture or Other Cruel, Inhuman, or Degrading Treatment or Punishment 38
9. The Right to be Free from Sexual Violence 41
10. The Right to Enjoy Scientific Progress and to Consent to Experimentation 45

## ***Table of Abbreviations***

### **Treaties and Conventions**

**THE UNIVERSAL  
DECLARATION**

*The Universal Declaration  
of Human Rights<sup>1</sup>*

**THE CIVIL AND POLITICAL  
RIGHTS COVENANT**

*The International  
on Civil and Political Rights<sup>2</sup>*

**THE CHILDREN'S RIGHTS  
CONVENTION**

*The Convention on the  
Rights of the Child<sup>3</sup>*

**THE ECONOMIC, SOCIAL,  
AND CULTURAL RIGHTS  
COVENANT**

*The International Covenant  
on Economic, Social and  
Cultural Rights<sup>4</sup>*

**CEDAW**

*The Convention on the  
Elimination of All Forms of  
Discrimination against Women<sup>5</sup>*

**THE CONVENTION  
AGAINST RACIAL  
DISCRIMINATION**

*The International Convention  
on the Elimination of All  
Forms of Racial  
Discrimination<sup>6</sup>*

**THE CONVENTION  
AGAINST TORTURE**

*The Convention against  
Torture and Other Cruel,  
Inhuman or Degrading  
Treatment or Punishment<sup>7</sup>*

**THE ROME STATUTE  
OF THE ICC**

*The Rome Statute of  
the International Criminal  
Court<sup>8</sup>*

***International Conference Documents*****THE VIENNA  
DECLARATION**

*The Vienna Declaration and  
Programme of Action, United  
Nations World Conference on  
Human Rights<sup>9</sup>*

**THE VIENNA PROGRAMME  
OF ACTION**

*The Vienna Declaration and  
Programme of Action, United  
Nations World Conference on  
Human Rights<sup>10</sup>*

**THE ICPD PROGRAMME  
OF ACTION**

*The Programme of Action,  
United Nations International  
Conference on Population  
and Development<sup>11</sup>*

**THE BEIJING PLATFORM  
FOR ACTION**

*The Beijing Declaration and  
the Platform for Action,  
United Nations Fourth World  
Conference on Women<sup>12</sup>*

## **4 *Reproductive Rights are Human Rights***

# ***Women's Reproductive Rights***

## **The International Legal Foundations**

All persons have reproductive rights, which are founded upon principles of human dignity and equality. But women have a unique role to play in human reproduction and are uniquely affected by government policies. Women's reproductive rights under international human rights law are a composite of a number of separate human rights. While a human rights perspective is not limited to legal principles, demands for reproductive self-determination should be based upon international law.

The 1990s was a key decade in articulating the links between the provisions set out in existing human rights treaties and women's reproductive rights. Widespread recognition of the legal foundations for reproductive rights is a critical step toward achieving human rights for all women.

Women's reproductive rights were a major topic at two recent international conferences, the 1994



## **6 *Reproductive Rights are Human Rights***

United Nations International Conference on Population and Development (ICPD) and the 1995 United Nations Fourth World Conference on Women (Beijing). The international women's community rallied to ensure that the consensus documents from these meetings affirmed the centrality of these rights to international human rights and described the panoply of rights that are included in the reproductive rights framework. As stated in Paragraph 7.3 of the ICPD Programme of Action:

*[R]eproductive rights embrace certain human rights that are already recognized in national laws, international human rights documents and other consensus documents. These rights rest 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. It also includes their right to make decisions concerning reproduction free*

*of discrimination, coercion and violence, as expressed in human rights documents.*<sup>13</sup>

In this publication, we set forth ten key international human rights, each of which encompasses reproductive rights. With respect to each of these rights, we cite only to selected provisions from major international legal instruments.

We recognize that there are other human rights not discussed herein that can be crucial to the exercise of reproductive rights. For example, without the full ability to exercise their rights to free speech and association, women may have little possibility of fighting for their reproductive rights.

Because recent United Nations conferences reaffirm governmental consensus on certain issues relating to international law, we have also included references to such documents. We have not included references to documents agreed to at the recent five-year review conferences of ICPD and Beijing. While these are crucial in providing additional guidance on implementation, they do not carry the same weight as the original documents. Those interested

## **8 *Reproductive Rights are Human Rights***

in seeing how the five-year review conferences further developed women's reproductive rights should consult our web site ([www.reproductiverights.org](http://www.reproductiverights.org)) for briefing papers describing the most relevant provisions.

## **The Right to Life, Liberty, and Security**

### ***Treaties and Conventions***

#### THE UNIVERSAL DECLARATION

**Article 3** Everyone has the right to life, liberty and security of person.

#### THE CIVIL AND POLITICAL RIGHTS COVENANT

**Article 6.1** Every human being has the inherent right to life. This right shall be protected by law.

**Article 9.1** Everyone has the right to liberty and security of person.

#### THE CHILDREN'S RIGHTS CONVENTION

**Article 6.1** State Parties recognize that every child<sup>14</sup> has the inherent right to life.

**Article 6.2** State Parties shall ensure to the maximum extent possible the survival and development of the child.

**Conference Documents**

THE ICPD PROGRAMME OF ACTION

**Paragraph 7.3** [Reproductive rights] includes [couples' and individuals'] right to make decisions concerning reproduction free of discrimination, coercion and violence, as expressed in human rights documents.

**Paragraph 7.17** Governments at all levels are urged to institute systems of monitoring and evaluation of user-centred services with a view to detecting, preventing and controlling abuses by family-planning managers and providers. . . . To this end, Governments should secure conformity to human rights and to ethical and professional standards in the delivery of family planning and related reproductive health services aimed at ensuring responsible, voluntary and informed consent and also regarding service provision.

## THE BEIJING PLATFORM FOR ACTION

**Paragraph 96** The human rights of women include their right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violence.

**Paragraph 106 (g)** [Governments should] [e]nsure that all health services and workers conform to human rights and to ethical, professional and gender-sensitive standards in the delivery of women's health services aimed at ensuring responsible, voluntary and informed consent; [and] encourage the development, implementation and dissemination of codes of ethics guided by existing international codes of medical ethics as well as ethical principles that govern other health professionals.

## **The Right to Health, Reproductive Health, and Family Planning**

### ***Treaties and Conventions***

#### THE ECONOMIC, SOCIAL, AND CULTURAL RIGHTS COVENANT

**Article 10.2** Special protection should be accorded to mothers during a reasonable period before and after childbirth.

**Article 12.1** The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

**Article 12.2** The steps to be taken by the States Parties to . . . achieve the full realization of this right shall include those necessary for: (a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child; . . . (d) The creation of conditions which would assure to all medical service

and medical attention in the event of sickness.

#### CEDAW

**Article 10 (h)** [States Parties shall ensure] [a]ccess to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.

**Article 12.1** States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.

**Article 12.2** States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition



## 14 *Reproductive Rights are Human Rights*

during pregnancy and lactation.

**Article 14.2** States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas [and] ensure to such women the right: . . . (b) To have access to adequate health care facilities, including information, counselling and services in family planning[.]

### THE CHILDREN'S RIGHTS CONVENTION

**Article 24.1** States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

**Article 24.2** States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures: (a) To

diminish infant and child mortality; . . . (d) To ensure appropriate pre-natal and post-natal health care for mothers; . . . (f) To develop preventive health care, guidance for parents and family planning education and services.

#### THE CONVENTION AGAINST RACIAL DISCRIMINATION

**Article 5** States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee [to] everyone . . . (e)(iv) the right to public health, medical care, social security and social services.

#### *Conference Documents*

#### THE VIENNA PROGRAMME OF ACTION

**Paragraph 41** The World Conference on Human Rights recognizes the importance of the enjoyment by women of the highest standard of physical and mental health throughout their life span. [T]he World Conference on Human Rights reaffirms, on the basis of

equality between women and men, a woman's right to accessible and adequate health care and the widest range of family planning services, as well as equal access to education at all levels.

#### THE ICPD PROGRAMME OF ACTION

**Principle 8** Everyone has the right to the enjoyment of the highest attainable standard of physical and mental health. States should take all appropriate measures to ensure, on a basis of equality of men and women, universal access to health-care services, including those related to reproductive health care, which includes family planning and sexual health. Reproductive health-care programmes should provide the widest range of services without any form of coercion.

**Paragraph 7.2** Reproductive health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity, in all matters relating to the

reproductive system and to its functions and processes. Reproductive health therefore implies that people are able to have a satisfying and safe sex life and that they have the capability to reproduce and the freedom to decide if, when and how often to do so. Implicit in this last condition are the right of men and women to be informed and to have access to safe, effective, affordable and acceptable methods of family planning of their choice, as well as other methods of their choice for regulation of fertility which are not against the law, and the right of access to appropriate health-care services that will enable women to go safely through pregnancy and childbirth and provide couples with the best chance of having a healthy infant.

**Paragraph 7.46** Countries, with the support of the international community, should protect and promote the rights of adolescents to reproductive health education, information

and care and greatly reduce the number of adolescent pregnancies.

**Paragraph 8.34** Governments should develop policies and guidelines to protect the individual rights of . . . persons infected with HIV and their families. Services to detect HIV infection should be strengthened, making sure that they ensure confidentiality.

#### THE BEIJING PLATFORM FOR ACTION

**Paragraph 89** Women have the right to the enjoyment of the highest attainable standard of physical and mental health. The enjoyment of this right is vital to their life and well-being and their ability to participate in all areas of public and private life. Health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity.

**Paragraph 92** Women's right to the enjoyment of the highest standard of health must

be secured throughout the whole life cycle  
in equality with men.

## **The Right to Decide the Number and Spacing of Children**

### ***Treaties and Conventions***

#### CEDAW

**Article 16.1** States Parties shall . . . ensure, on a basis of equality of men and women . . .  
(e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights[.]

### ***Conference Documents***

#### THE ICPD PROGRAMME OF ACTION

**Principle 8** All couples and individuals have the basic right to decide freely and responsibly the number and spacing of their children and to have the information, education and means to do so.<sup>15</sup>

## THE BEIJING PLATFORM FOR ACTION

**Paragraph 223** [T]he Fourth World Conference on Women reaffirms that reproductive rights rest 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. . . .



## **The Right to Consent to Marriage and to Equality in Marriage**

### ***Treaties and Conventions***

#### THE UNIVERSAL DECLARATION

**Article 16.1** Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

**Article 16.2** Marriage shall be entered into only with the free and full consent of the intending spouses.

#### THE ECONOMIC, SOCIAL, AND CULTURAL RIGHTS COVENANT

**Article 10.1** Marriage must be entered into with the free consent of the intending spouses.

## THE CIVIL AND POLITICAL RIGHTS COVENANT

**Article 23.2** The right of men and women of marriageable age to marry and to found a family shall be recognized.

**Article 23.3** No marriage shall be entered into without the free and full consent of the intending spouses.

**Article 23.4** States Parties . . . shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution.

## CEDAW

**Article 16.1** States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations. . . .

**Article 16.2** The betrothal and the marriage of a child shall have no legal effect, and all

## 24 *Reproductive Rights are Human Rights*

necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

### ***Conference Documents***

#### THE ICPD PROGRAMME OF ACTION

**Principle 9** The family is the basic unit of society and as such should be strengthened. . . . Marriage must be entered into with the free consent of the intending spouses, and husband and wife should be equal partners.

#### THE BEIJING PLATFORM FOR ACTION

**Paragraph 274 (e)** [Governments should] [e]nact and strictly enforce laws to ensure that marriage is only entered into with the free and full consent of the intending spouses; in addition, enact and strictly enforce laws concerning the minimum legal age of consent and the minimum age for marriage and raise the minimum age for marriage where necessary[.]

## **The Right to Privacy**

### ***Treaties and Conventions***

#### THE CIVIL AND POLITICAL RIGHTS COVENANT

**Article 17.1** No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his (*sic*) honour and reputation.

**Article 17.2** Everyone has the right to the protection of the law against such interference or attacks.

#### THE CHILDREN'S RIGHTS CONVENTION

**Article 16.1** No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.

**Article 16.2** The child has the right to the

protection of the law against such interference or attacks.

### ***Conference Documents***

#### THE ICPD PROGRAMME OF ACTION

**Paragraph 7.45** [Reproductive and sexual health] services must safeguard the rights of adolescents to privacy, confidentiality, respect and informed consent, respecting cultural values and religious beliefs.

#### THE BEIJING PLATFORM FOR ACTION

**Paragraph 106 (f)** [Governments should] [r]edesign health information, services and training for health workers so that they are gender-sensitive and reflect the user's . . . right to privacy and confidentiality. . . .

**Paragraph 107 (e)** [Governments should] [p]repare and disseminate accessible information . . . designed to ensure that women and men, particularly young people, can

acquire knowledge about their health, especially information on sexuality and reproduction, taking into account the rights of the child to access to information, privacy, confidentiality, respect and informed consent.

## **The Right to be Free from Discrimination on Specified Grounds**

### ***Treaties and Conventions***

#### THE UNIVERSAL DECLARATION

**Article 2** Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

#### THE ECONOMIC, SOCIAL, AND CULTURAL RIGHTS COVENANT

**Article 2.2** The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

## THE CIVIL AND POLITICAL RIGHTS COVENANT

**Article 2.1** Each State Party to the present Covenant undertakes to respect and to ensure to all individuals . . . the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

## CEDAW

**Article 1** [T]he term “discrimination against women” shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.



**Article 3** States Parties shall take in all fields . . . all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

**Article 11.2** In order to prevent discrimination against women on the grounds of . . . maternity . . . States Parties shall take appropriate measures: (a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status; . . . (d) To provide special protection to women during pregnancy in types of work proved to be harmful to them.

#### THE CHILDREN'S RIGHTS CONVENTION

**Article 1** For the purposes of the present Convention, a child means every human being below the age of eighteen years unless

under the law applicable to the child, majority is attained earlier.

**Article 2.1** States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parents or legal guardian's race, colour, sex, religion, political or other opinion, ethnic or social origin, property, disability, birth or other status.

**Article 2.2** States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

**Article 5** States Parties shall respect the responsibilities, rights and duties of parents,

or where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.

### ***Conference Documents***

#### THE VIENNA DECLARATION

**Paragraph 18** The human rights of women and of the girl-child are an inalienable, integral and indivisible part of universal human rights. The full and equal participation of women in political, civil, economic, social and cultural life, at the national, regional and international levels, and the eradication of all forms of discrimination on grounds of sex are priority objectives of the international community.<sup>16</sup>

## THE ICPD PROGRAMME OF ACTION

**Paragraph 4.4** Countries should act to empower women and should take steps to eliminate inequalities between men and women as soon as possible by: . . . (c) Eliminating all practices that discriminate against women; assisting women to establish and realize their rights, including those that relate to reproductive and sexual health[.]

**Paragraph 7.45** Recognizing the rights, duties and responsibilities of parents and other persons legally responsible for adolescents to provide, in a manner consistent with the evolving capacities of the adolescent, appropriate direction and guidance in sexual and reproductive matters, countries must ensure that the programmes and attitudes of health-care providers do not restrict the access of adolescents to appropriate services and the information they need, including on sexually transmitted diseases and sexual abuse. In doing so, and in order to, inter

### 34 *Reproductive Rights are Human Rights*

alia, address sexual abuse, these services must safeguard the rights of adolescents to privacy, confidentiality, respect and informed consent, respecting cultural values and religious beliefs. In this context, countries should, where appropriate, remove legal, regulatory and social barriers to reproductive health information and care for adolescents.

#### THE BEIJING PLATFORM FOR ACTION

**Paragraph 232(a)** [Governments should] [g]ive priority to promoting and protecting the full and equal enjoyment by women and men of all human rights and fundamental freedoms without distinction of any kind as to race, colour, sex, language, religion, political or other opinions, national or social origins, property, birth or other status.

## **The Right to be Free from Practices that Harm Women and Girls**

### ***Treaties and Conventions***

#### CEDAW

**Article 2 (f)** [States Parties undertake] [t]o take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women[.]

**Article 5 (a)** [State Parties shall take all appropriate measures] [t]o modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women[.]

THE CHILDREN'S RIGHTS CONVENTION

**Article 24.3** States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

***Conference Documents***

THE VIENNA PROGRAMME OF ACTION

**Paragraph 38** [T]he World Conference on Human Rights stresses the importance of working towards the . . . eradication of any conflicts which may arise between the rights of women and the harmful effects of certain traditional or customary practices, cultural prejudices and religious extremism.

**Paragraph 49** The World Conference on Human Rights urges States to repeal existing laws and regulations and remove customs and practices which discriminate against and cause harm to the girl child.

#### THE ICPD PROGRAMME OF ACTION

**Paragraph 5.5** Governments should take effective action to eliminate all forms of coercion and discrimination in policies and practices. Measures should be adopted and enforced to eliminate child marriages and female genital mutilation.

#### THE BEIJING PLATFORM FOR ACTION

**Paragraph 224** Any harmful aspect of certain traditional, customary or modern practices that violates the rights of women should be prohibited and eliminated.



## **The Right to Not be Subjected to Torture or Other Cruel, Inhuman, or Degrading Treatment or Punishment**

### ***Treaties and Conventions***

#### THE UNIVERSAL DECLARATION

**Article 5** No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

#### THE CIVIL AND POLITICAL RIGHTS COVENANT

**Article 7** No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

#### THE TORTURE CONVENTION

**Article 1** [T]he term “torture” means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for . . . any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or

acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

#### THE CHILDREN'S RIGHTS CONVENTION

**Article 37 (a)** [States Parties shall ensure that] [n]o child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment.

#### *Conference Documents*

#### THE VIENNA PROGRAMME OF ACTION

**Paragraph 56** The World Conference on Human Rights reaffirms that under human rights law and international humanitarian law, freedom from torture is a right which must be protected under all circumstances, including in times of internal or international disturbance or armed conflicts.

THE ICPD PROGRAMME OF ACTION

**Paragraph 4.10** Countries are urged to identify and condemn the systematic practice of rape and other forms of inhuman and degrading treatment of women as a deliberate instrument of war and ethnic cleansing and take steps to assure that full assistance is provided to the victims of such abuse for their physical and mental rehabilitation.

## **The Right to be Free from Sexual Violence**

### ***Treaties and Conventions***

#### CEDAW

**Article 5 (a)** [State Parties shall take all appropriate measures] [t]o modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women[.]

**Article 6** States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

#### THE CHILDREN'S RIGHTS CONVENTION

**Article 19.1** States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the

child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

**Article 34** States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent: (a) The inducement or coercion of a child to engage in any unlawful sexual activity; (b) The exploitative use of children in prostitution or other unlawful sexual practices; (c) The exploitative use of children in pornographic performances and materials.

#### THE ROME STATUTE OF THE ICC

**Article 7.1** For the purpose of this Statute, "crime against humanity" means any of the

following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack: . . . (g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity[.]<sup>17</sup>

### ***Conference Documents***

#### THE VIENNA DECLARATION

**Paragraph 18** Gender-based violence and all forms of sexual harassment and exploitation, including those resulting from cultural prejudice and international trafficking, are incompatible with the dignity and worth of the human person, and must be eliminated.

#### THE VIENNA PROGRAMME OF ACTION

**Paragraph 38** [T]he World Conference on Human Rights stresses the importance of working towards the elimination of violence against women in public and private life. . . .

#### 44 *Reproductive Rights are Human Rights*

The World Conference on Human Rights . . . urges States to combat violence against women. . . . Violations of the human rights of women in situations of armed conflict are violations of the fundamental principles of international human rights and humanitarian law. All violations of this kind, including in particular murder, systematic rape, sexual slavery, and forced pregnancy, require a particularly effective response.

#### THE ICPD PROGRAMME OF ACTION

**Principle 4** Advancing gender equality and equity and the empowerment of women, and the elimination of all kinds of violence against women, and ensuring women's ability to control their own fertility, are cornerstones of population and development-related programmes.

## **The Right to Enjoy Scientific Progress and to Consent to Experimentation**

### ***Treaties and Conventions***

#### THE ECONOMIC, SOCIAL, AND CULTURAL RIGHTS COVENANT

**Article 15.1** The States Parties to the present Covenant recognize the right of everyone: . . . (b) To enjoy the benefits of scientific progress and its applications[.]

#### THE CIVIL AND POLITICAL RIGHTS COVENANT

**Article 7** [N]o one shall be subjected without his (sic) free consent to medical or scientific experimentation.

### ***Conference Documents***

#### THE VIENNA DECLARATION

**Paragraph 11** Everyone has the right to enjoy the benefits of scientific progress and its applications. The World Conference on Human Rights notes that certain advances,



notably in the biomedical and life sciences as well as in information technology, may have potentially adverse consequences for the integrity, dignity and human rights of the individual, and calls for international cooperation to ensure that human rights and dignity are fully respected in this area of universal concern.

#### THE BEIJING PLATFORM FOR ACTION

**Paragraph 109 (h)** [Governments should] [p]rovide financial and institutional support for research on safe, effective, affordable and acceptable methods and technologies for the reproductive and sexual health of women and men, including more safe, effective, affordable and acceptable methods for the regulation of fertility, including natural family planning for both sexes, methods to protect against HIV/AIDS and other sexually transmitted diseases and simple and inexpensive methods of diagnosing such diseases, among others; this research needs to be guided at all

stages by users and from the perspective of gender, particularly the perspective of women, and should be carried out in strict conformity with internationally accepted legal, ethical, medical and scientific standards for biomedical research[.]

## Endnotes

- 1 Universal Declaration of Human Rights, *adopted* Dec. 10, 1948, G.A. Res. 217A (III), U.N. Doc. A/810 at 71 (1948).
- 2 International Covenant on Civil and Political Rights, *adopted* Dec. 16, 1966, G.A. Res. 2200A (XXI), UN GAOR, 21st Sess., Supp. No. 16, at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171 (*entered into force* Mar. 23, 1976).
- 3 Convention on the Rights of the Child, *adopted* Nov. 20, 1989, G.A. Res. 44/25, annex, UN GAOR, 44th Sess., Supp. No. 49, at 166, U.N. Doc. A/44/49 (1989), *reprinted in* 28 I.L.M. 1448 (*entered into force* Sept. 2, 1990).
- 4 International Covenant on Economic, Social and Cultural Rights, *adopted* Dec. 16, 1966, G.A. Res. 2200A (XXI), UN GAOR, 21st Sess., Supp. No. 16, at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3 (*entered into force* Jan. 3, 1976).
- 5 Convention on the Elimination of All Forms of Discrimination against Women, *adopted* Dec. 18, 1979, G.A. Res. 34/180, UN GAOR, 34th Sess., Supp. No. 46, at 193, U.N. Doc. A/34/46, 1249 U.N.T.S. 13 (*entered into force* Sept. 3, 1981).
- 6 International Convention on the Elimination of All Forms of Racial Discrimination, *adopted* Dec. 21, 1965, G.A. Res. 2106 (XX), 660 U.N.T.S. 195 (*entered into force* Jan. 4, 1969).
- 7 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *adopt-*

ed Dec. 10, 1984, G.A. Res. 39/46, UN GAOR, 39th Sess., Supp. No. 51, at 197, U.N. Doc. A/39/51 (1984), 1465 U.N.T.S. 85 (*entered into force* June 26, 1987).

8 Rome Statute of the International Criminal Court, *adopted* July 17, 1998, United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, Rome, Italy, June 15–July 17, 1998, U.N. Doc. A/CONF.183/9 (1998) *reprinted in* 37 I.L.M. 1002 (*entered into force* July 1, 2002).

9 *Vienna Declaration and Programme of Action, World Conference on Human Rights*, Vienna, Austria, June 14–25, 1993, U.N. Doc. A/CONF.157/23 (1993)

10 *Id.*

11 *Programme of Action of the International Conference on Population and Development*, Cairo, Egypt, Sept. 5–13, 1994, U.N. Doc. A/CONF.171/13/Rev.1 (1995) [hereinafter *ICPD Programme of Action*], *available at* <http://www.unfpa.org/icpd/reports.htm> (last visited June 29, 2001).

12 *Beijing Declaration and the Platform for Action, Fourth World Conference on Women*, Beijing, China, September 4–15 1995, U.N. Doc. A/CONF.177/20 (1996) [hereinafter *Beijing Declaration and Platform for Action*] *available at* [gopher://gopher.undp.org/00/unconfs/women/off/a-20.en](http://gopher://gopher.undp.org/00/unconfs/women/off/a-20.en) (last visited June 29, 2001).

13 This definition of reproductive rights was reinforced at the United Nations Fourth World Conference on Women. *See Beijing Declaration and Platform for Action*,

## 50 *Reproductive Rights are Human Rights*

*supra* note 12, para. 95.

14 The Children's Rights Convention defines a child as a "human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier."

*See supra* note 3, art. 1.

15 *See also ICPD Programme of Action, supra* note 11, para. 7.3.

16 *See also ICPD Programme of Action, supra* note 11, principle 4 and *Beijing Declaration and Platform for Action, supra* note 12, para. 213.

17 These crimes were also established as war crimes under Article 8(2)(b)(xxii) of the Rome Statute of the ICC. *See supra* note 8.



