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PROCEDURES SPECIALES DU
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UNITED NATIONS
OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Chair-Rapporteur of the Working Group on the issue of discrimination against women in law and in practice; and the Special Rapporteur on violence against women, its causes and consequences.

REFERENCE: AL Health (2002-7) G/SO 214 (89-15)
IRL 1/2013

8 February 2013

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Chair-Rapporteur of the Working Group on the issue of discrimination against women in law and in practice; and Special Rapporteur on violence against women, its causes and consequences pursuant to Human Rights Council resolution 15/22, 15/23, and 16/7.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning the **impact of Ireland's restrictive abortion laws on the reproductive health of women and girls.**

According to the information received:

It is alleged that women and girls in Ireland are unable to access medical services for abortion under any circumstances, including where pregnancy poses a risk to the lives or health of women, cases of rape or incest, and cases of foetal malformation. According to the source, procuring or assisting in an unlawful abortion is a criminal offence reportedly punishable by up to life imprisonment.

It is also alleged that despite the Irish Supreme Court's verdict that abortions are lawful in cases where there is a real and substantial risk to the life of the pregnant women, including the risk of suicide, medical services for abortion reportedly remain unavailable due to lack of legislation to give effect to this ruling (*Attorney General v. X*, [1992] 1 I.R. 1).

It is further alleged that according to the ruling of the European Court of Human Rights (*A, B and C v. Ireland* (2011) 53 EHRR 13), the Irish Government was

requested to set up an accessible and effective procedure for medical practitioners to determine eligibility criteria for lawful abortions. It is alleged that there has been a significant delay in setting up this procedure, and that lawful abortion continues to be inaccessible due to the absence of a clear protocol.

It is alleged that in order to access safe and legal abortion services, women and girls travel outside Ireland. It is further alleged that women and girls who cannot afford to travel abroad to access safe and legal abortion services, often perform unsafe abortions in Ireland.

While we do not wish to prejudge the accuracy of these allegations, we would appreciate information from your Excellency's Government on the steps taken by the competent authorities with a view to ensuring the right to the enjoyment of the highest attainable standard of health, especially the right to sexual and reproductive health of women. This right is reflected, inter alia, in article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) – ratified by Ireland on 8 December 1989– which provides for the right of everyone to the enjoyment of the highest attainable standard of mental and physical health, including sexual and reproductive health of women. This comprises an obligation on the part of all States Parties to ensure that measures are taken to ensure that access to health services is available to everyone, especially the most vulnerable or marginalized sections of the population, without discrimination.

In that connection, the Committee on Economic, Social and Cultural Rights in its General Comment No. 14 provides that the right to health contains both freedoms and entitlements and holds that “the freedoms include the right to control one's health and body, including sexual and reproductive freedom, and the right to be free from interference, such as the right to be free from torture, non-consensual medical treatment and experimentation” (para. 8).

The right to health of women is also reflected in the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), to which your country acceded on 23 December 1985. According to article 12, States should 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 16(1) of the Convention further holds that States should take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular should ensure, on a basis of equality of men and women, 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. In the General Recommendation 24, the Committee on the Elimination of All Forms of Discrimination against Women holds that “the obligation to respect rights requires States parties to refrain from obstructing action taken by women in pursuit of their health goals” (para. 14).

The CEDAW Committee has repeatedly called on states to reduce maternal mortality, including where it arises from unsafe abortions. The Committee's overriding concern as to punitive abortion laws is the increased probability of higher maternal mortality and morbidity rates and the Committee has continually asked States to remove criminal penalties for women undergoing abortions. The Committee has called for implementation of regulations for laws allowing legal therapeutic and ethical abortion, so that abortion provisions are clear to the providers and to women.

Finally, we would like to recall the report to General Assembly (A/66/254), which reiterates that criminalization of sexual and reproductive health services for women generates and perpetuates stigma; restricts their ability to make full use of available sexual and reproductive health-care goods, services and information; denies their full participation in society; hinders their access to healthcare services; and disempowers women. Furthermore, criminalization of abortion results in negative physical and mental health outcomes for women and may increase the likelihood of women seeking clandestine abortions.

Moreover, it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters:

1. Are the facts alleged in the above summary of the case accurate?
2. Please provide details of any measures taken to comply with the decision of the European Court of Human Rights (*A, B and C v Ireland*) and the ruling of the Irish Supreme Court (*Attorney General v. X*).
3. Please provide details of any measures taken to ensure that all women have access to adequate medical services with a view to decreasing the number of unsafe abortions, and preventing serious and lasting harm to the physical and mental health of women.
4. Please provide details of any measures taken to ensure the enjoyment of the right to health, including sexual and reproductive health, of all girls and women.

We would appreciate a response within sixty days. Your Excellency's Government's response will be made available in a report to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to ensure the protection and full enjoyment of the right to the highest attainable standard of health for women in accordance with international standards. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

Please accept, Excellency, the assurances of our highest consideration.

Anand Grover
Special Rapporteur on the right of everyone to the enjoyment of the
highest attainable standard of physical and mental health

Kamala Chandrakirana
Chair-Rapporteur of the Working Group on the issue of discrimination
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Rashida Manjoo
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