

March 21, 2006

The Stealth Strategy for Imposing Universal Abortion

By Douglas A. Sylva

At the conclusion of the United Nation's annual Commission on the Status of Women last week, one women's advocate sniffed: "To ask governments and international financial institutions to ensure equal participation is a step in the right direction, but the problem is that they are not obligated to do so."

Almost all of the international women's rights groups pursue this quest for new, expansive international law — international law with enforcement mechanisms, international law, that is, with sharp teeth. The Center for Reproductive Rights (CRR), a US-based legal group that advocates for universal abortion on demand, has established in its own strategy papers that its "overarching goal is to ensure that governments worldwide guarantee reproductive rights out of an understanding that they are bound to do so."

Why is this important? The just-concluded debate on the new Human Rights Council focused on the obvious issue: how to overcome the UN's official neutrality concerning the merits of its member states, and, therefore, how to overcome the embarrassment that nations such as Sudan and Libya must be granted the same formal respect — and the same access to shaping the UN's human rights agenda, its official pronouncements, and its condemnation of abuses — as nations such as Holland and New Zealand.

But while this discussion — whether any UN human rights body can avoid descending into farce — may be understandable, it is important to move beyond the topic of those actors who would seek to use human rights mechanisms to hide their own human rights violations, and discuss those actors, such as CRR, who, instead, would like to expand international human rights law and use it to transform the world.

As strange as it might sound, CRR, and other groups largely unknown beyond the confines of the United Nations, may be better placed to affect international human rights development than nation states; in fact, their activities pose a real challenge to the notion of sovereignty upon which statehood is based.

These groups rarely agitate for a new international treaty to enshrine their beliefs in explicit detail, for the simple reason that they know that sufficient international support does not exist for their agenda. Instead, they take the bedrock international treaties, treaties with almost universal support, and warp them to fit their purposes.

In this effort they are assisted by the committees set up by United Nations to monitor states' compliance with the international law treaties. These committees, working with the advocacy groups, sometimes staffed with members of these same groups, collude in order to stretch the official interpretations of the treaties beyond what their framers would have ever imagined possible.

Human Rights Watch — another non-governmental organization now devoted to the universal abortion license — is willing to admit that there is no "explicit treaty language on abortion." But have no fear, "although the text of most international treaties is silent on the topic of abortion... authoritative interpretations of international law recognize that abortion is vitally important to women's exercise of their human rights. UN treaty bodies, which take a measured approach to interpreting international human rights law, have consistently and extensively opined on abortion access and restrictions. By our count, as of early 2005, at least 122 concluding observations on 93 countries spanning more than a decade by UN treaty bodies have substantively addressed how abortion relates to fundamental human rights. These bodies reason that firmly established human rights are jeopardized by restrictive or punitive abortion laws and

practices.”

Thus, control the “authoritative” interpretative power, and it simply does not matter what the actual treaties, documents painstakingly crafted by member states over the course of years, actually say. At least 93 nations have been hectored into liberalizing their abortion laws, based on nothing that has been introduced by member states, debated by members states, agreed to by member states, or ratified by member states.

Another group, the International Women's Health Coalition, says much the same thing as Human Rights Watch: IWHC admits that no UN treaties “explicitly assert a woman's right to abortion, nor do they legally require safe abortion services.” But, “Despite these qualifications... the human rights instruments — if broadly interpreted and skillfully argued — can be very useful tools in efforts to expand access to safe abortion.”

In the echo chamber of radical non governmental organizations and UN compliance committees, what is said bounces back and forth, building in volume to a crescendo of mutual reinforcement. Thus, what starts as the outlandish musings of some radical law professor become the accepted interpretations of the major international human rights treaties.

And so the Center for Reproductive Rights can go before the United Nations Human Rights Committee just last week and assert — without fear of correction — that the United States has fallen out of compliance with the principle international treaty defending civil and political rights, because the Bush administration has failed “to protect women's reproductive rights,” even though the word “reproductive” itself never appears in the text in question (let alone the word abortion).

Such a strategy is best described as a game, one that shows disdain for the right of nations to know the extent of the obligations they accept upon themselves, as well as disdain for the citizens around the world who will never know how such change occurs, or how or to whom they could ever hope to voice dissent. As CRR itself concluded in a paper outlining this strategy, “there is a stealth quality to the work.”