

UGANDA SHOULD NOT LIBERALIZE ABORTION LAWS

BY:

**AFRICA POLICY CENTRE
UGANDA CHRISTIAN UNIVERSITY**

October, 2017

UGANDA SHOULD NOT LIBERALIZE ABORTION LAWS

~ A WHITE PAPER ~

By:

Africa Policy Centre,
Uganda Christian University

In conjunction with:

Center for Global Justice, Human Rights and the Rule of Law,
Regent University

October, 2017



Uganda Office:

Apollo Kivebulaya Building, UCU Mukono
P. O. Box 4 Mukono, Uganda
Tel: +256312350233; Mobile: +256756096135
Email: apc@ucu.ac.ug africapolicy2@gmail.com

USA Office:

Charlottesville, Virginia, 22901
Tel: +14347600184
Email: ladams@ucu.ac.ug; larsadams62@gmail.com

Website: <http://www.ucuafricapolicy.org>

Twitter: @UCU_APC

Facebook: African Policy Centre

Contents

Executive Summary	5
1.0 General Introduction	7
1.1 Pressure on a pro-life country	7
2.0 Construction of the ‘Right to Abortion’	9
2.1 Linguistic and ‘paradigm’ shift towards abortion.....	11
3.0 The vulgarization of the concept of human rights by pro-abortionists	15
3.1 Meaning of human right.....	15
3.2 Misguided understanding of Human Rights	17
3.2.1 Vulgarizing the concept of human rights.....	17
3.2.2 Vulgarization of the concept of ‘progress’	19
3.3 The proper logic for stages of human life	21
3.4 Need for differentiating between maternal health and abortion.....	21
4.0 Proper interpretation of international and domestic legislation on abortion	23
4.1 Uganda is not legally required to change its abortion laws	23
5.0 Artificial demographics and family pressures	34
6.0 Uganda should not liberalize its abortion laws	36
7.0 Conclusions and Recommendations	46
8.0 Sources:.....	47

Executive Summary

Uganda should not allow itself to be blackmailed and stampeded into accepting abortion as a human right nor should she amend her laws to allow more grounds upon which to commit this despicable crime against humanity. Being the country is a pro-life nation dedicated to protecting the lives of all citizens, from before birth (conception) to natural death, Uganda is deeply cognizant of the inherent worth of unborn children, recognizing them as the future of the country. However, there are incessant attacks on Uganda's national convictions (as enshrined in her laws and other regulations) on the worth of human life by various well-orchestrated and funded groups disguised as human rights and good will activists. These groups are exerting enormous pressures upon and undermining the traditional family values and the social and ethical fabric that have safeguarded the African family for millions of years.

Fortunately, objective research shows that the grounds on which the push for abortion is based are untenable and at worst, illogical. The Africa Policy Centre carried out research on the facts and positions being presented in support of liberalization of abortion legislation in Uganda. The findings of this research are the contents of this paper. Some of the major findings of the research are:

- 1) Abortion leaves deep and long-term negative impacts on the family, thus weakening the society.
- 2) A proper analysis of historical accounts reveals that the 'Right to Abortion' emerged as a mere "construction" from certain parts of the world and this artificial 'construct' is being pushed down the throats of most countries by misguided organizations that claim to be promotion human rights. (This summary point contains emotional language – i.e. down the throats – which is a tone switch from the rest and could detract from your message.)
- 3) The emergence of "pseudo-scientific" movements seeking to use a permissive approach to science and technology to change family values and liberalize abortion is aimed at achieving ulterior motives and politically suspect causes that may prove disastrous.

4) Pro-abortion advocates clandestinely employ well-chosen, good-sounding terminologies and a linguistic approach in order to socially engineer and make the leaders and general public soften its conventional attitudes towards abortion

5) Those who support abortion hold a misguided conception of 'human rights' and are using it to promote something that is neither 'right' nor for 'human'.

6) The normal and proper logic of human life is that it starts at the point of conception, which should be held and maintained by the law.

7) Both international and domestic laws uphold Uganda's moral and legal duty to protect the defenseless and vulnerable unborn children.

Therefore on the above grounds and more discussion herein, this paper recommends the following:

- a) That the government urgently commences work towards the enactment of a law that will legally protect the family from undue pressures; it could tentatively be titled: 'TRADITIONAL FAMILY VALUES PROTECTION BILL;'
- b) That the government establishes a specialized, FAMILY SAFEGUARD DEPARTMENT / UNIT in a relevant ministry in order to monitor the Ugandan family;
- c) That the government establishes and vigorously enforces requirements for ministerial office to periodically report on how their ministry activities are impacting the Ugandan family;
- d) That funds that are disbursed from the central government to the regional or local governments to be preconditioned on assessment of how they build and strengthen the Uganda family; and
- e) That the data usually presented in reports promoting the liberalization of abortion laws be subjected to a thorough test of factuality, biased analysis, among others to establish authenticity.

1.0 General Introduction

This paper explains the solid grounds on which Uganda should stand to refuse the push to liberalize its laws regarding abortions. The first section traces the construction of the 'Right to Abortion' in order to provide context. It also discusses the linguistic shift that is taking place in reference to abortion which is purposefully used to gradually change the conventional Ugandan paradigm on abortion. The second section explains the misguided understanding of human rights that underlies the basic push for the liberalization. The third one deals with international and domestic legal provisions on abortion. It explains why Uganda is not legally required to change its abortion laws under the governing domestic or international law. The next section adds more logical and factual evidence why Uganda should not liberalize its abortion laws, presenting viable and serious reasons for this position. There is also a section that discusses the long-term national security threat and human resource problems that may emerge from a liberalized abortion climate. The last section sets out suggestions and recommendations that the Ugandan government could take in order to make its society stronger. Overall, the paper presents the position that Uganda should take regarding the liberalization of its abortion laws. Liberalizing would be counter to the protection of its national interests, values and its cultural norms, as well as being unacceptable for medical, social, economic, and other reasons.

1.1 Pressure on a pro-life country

Uganda is a pro-life nation, that is, Uganda is a nation dedicated to protecting the lives of all Ugandans, from before birth to natural death. Moreover, Uganda is a deeply religious nation, with many of her citizens recognizing the inherent worth of unborn children through the tenements of their faith. Recently, however, there have been attacks on Uganda's convictions by secular groups from the West. These groups seek to force Uganda into accepting what parts of the Western world have determined is morally "correct;" that is, the "right" to abortion on demand. But killing innocent human beings can never be a human right. On the contrary, Uganda has a moral and legal duty to protect the vulnerable and defenseless in society, and no group of people is more defenseless than unborn children. Rather than cave to western elites who seek to force Uganda to adopt a secular worldview that is utterly foreign to her tradition, history, and values, Uganda should stand firm in its commitment to protect life and continue to prohibit abortion.

Additionally, in recent times enormous social, economic and legal pressure is being placed on the traditional family values and on the social and ethical fabric that has safeguarded the African family for millennial. This pressure is exerting great impact on the structure of Uganda's family landscape and having far reaching consequences. This calls for society's leaders and thinkers to pay attention to the pressures that are affecting the traditional family and to devise both mitigation and supportive measures that could safeguard the Ugandan community. We have to always remember that the foundation of any society is the family and the foundation of any people is the child. One of the pressures that the traditional family is facing is the increasing push for the liberalization of the abortion legislation that are contained in Uganda's current legal regime. But research shows that abortion liberalization has a deep and long-term negative impact on the family, thus weakening Uganda as a society.

2.0 Construction of the 'Right to Abortion'

The rapid advancement in technology and industrialization in the 20th century, particularly in the West, had great impact in terms of social changes. The monetization of the modern economy created artificial economic pressures on families and communities, thus leading to a desire in some communities to try and limit family size. However, these circumstances were also fertile grounds for the emergence of “pseudo-scientific” movements seeking to use this permissive approach to family life and abortion to achieve ulterior motives and political causes. One such cause was radical feminism and the liberation of women. If women were to be “equal” to men, they could not be “forced” to bear children. Accordingly, secularists and feminists in the west capitalized on the economic and social changes to advance their agendas.

Abortion is known throughout the recorded and oral history of all cultures. Ancient sources describe the practice, though rarely with approval. Indeed, abortion generally has been morally condemned, and has been outlawed, in nearly every place until the mid-20th century. Variations are recorded on the degree of punishment, and even the application of the law depending on the concurrent understanding of the actual status of the unborn child. Traditionally, Western cultures relied on Aristotle’s theory of ‘quickening of the fetus’ (detection of movement) to determine that a life existed -- or, the existence of the Soul -- since little could be discerned about the period between conception and quickening. Similar understandings of quickening can be detected in Jewish, Christian as well as Islamic sources. Much, of course, has changed with the development of technology that allows monitoring of the baby nearly from conception, showing the existence of life immediately. That same technology, of course, also allows the determination of the condition of the pregnancy and the improvement of ability to perform abortions more “safely.” It only measures “viability” or level of development rather than the evidence of a Soul. Of course, in modernity even the fact of a Soul is excluded in exchange for purely material definitions of life.

The emergence in the 20th century of “scientific” movements designed to gain greater “population control” (out of fear of “over-population”) as well as of “eugenics” for the “improvement” of human populations, developed methods of conception control and of

“birth control” through intervention in existing pregnancies. The newly-conceived child became known as a “fetus” rather than a living Human Soul in the womb of a mother. The general notion of progress, not only through education and development, but through a cultural shift from traditional moral to scientific/rational foundations, became dominant in part through these movements. With industrialization and social changes, and economic pressures on families and communities, came a desire in many situations to limit family size. These and other circumstances allowed the joining of private need/desire with larger-scale “scientific” movements seeking to permit abortion for wider social causes.

So these grand, technological and moral shifts in the 20th century allowed for childbearing to become seen as a matter for exclusive human control, of personal choice, measurement, and technique, rather than, say, a gift from God, or of participating in the natural processes of human flourishing. All these techniques, including abortion, as well as fertility control and contraception, were redefined as “health-care” practices and detached from larger cultural values. These human activities shifted also to the realm of private life, rather than of social and public concern. This occurred along with nearly all matters pertaining to sexuality and family. Choice and privacy became the primary claim, partially to protect individuals from state intrusion, but also developing along with the growing sense in the west that many human activities were not the province of God or of human authority, but of the individual will to choose. The power of the personal triumphed over the common good. Indeed, and as will be discussed later, human rights, including the alleged “right” to abortion, were grounded in radical individual autonomy, rather than the reality that humans are created in the image of God and for relationships with other humans.

So, in the west, the gradual judicial, legislative and constitutional recognition of “rights” to privacy, choice, and control over one’s body established the ground that abortion is a legitimate option and cannot generally be criminalized. And that choice has been narrowed to that of the pregnant woman, excluding the father, parents, and community. In the UK, for example, judicial precedents and legal measures gradually led to implementation of the 1967 Abortion Law. The 1967 act did not establish a right to abortion, which remained generally illegal. It did, however, expand the circumstances in which exceptions to the law could be made. In the US, similar legalizing measures in some states were passed in the 1960s. More importantly, the judicial procedures leading to the Roe v. Wade case before the Supreme

Court in 1973, incorporated the practice of abortion into the already-established (in case law) “right to privacy.” These have been extended in well-documented developments over the last 50 years. In these subsequent rulings and other discourse, the “right of a woman to terminate her pregnancy” has been established on the basis of privacy and personal choice.

Despite these illegitimate court rulings, no bills of rights, moral or natural law arguments, nor theological considerations recognized such a right prior to the shift in the understanding of the nature of rights to one of personal choice and pure individual autonomy. Rights once were understood to be recognized realms of freedom from unjust imposition upon the necessities of human functioning and flourishing; they were understood as protections of persons and communities from abuses of power. Now in the west, however, they are a category of ever-expanding demands for self-expression and ultimately self-construction, completely divorced from any idea that humans exist in relationship to God and the community. This new understanding of rights is best disclosed by Justice Anthony Kennedy in the 1992 US Supreme Court decision *Planned Parenthood v. Casey*: “At the heart of liberty is the right to define one's own concept of existence, of meaning, of the universe, and of the mystery of human life.”¹

This central notion, now instantiated in US law and that of many nations, contradicts both the understanding of those who believe in the authority of God and in the foundation of human life and community in natural sources, as well as being a radical departure from the ancient and established norms of cultures that require a sense of the sacredness of life and the obligation of all to adhere to the Moral Law.

*For the wise men of old the cardinal problem had been how to conform the soul to Reality, and the solution had been knowledge, self-discipline, and virtue. [Now] for applied science ... the problem is how to subdue reality to the wishes of men: the solution is a technique; and, ... in the practice of this technique, ready to do things hitherto regarded as disgusting and impious...*²

2.1 Linguistic and ‘paradigm’ shift towards abortion

With a change in ideology comes a change in terminology. Accordingly, as we consider the basis for the right to abortion, we must also be aware that there is concerted effort to

¹ Justice Anthony Kennedy in the 1992 US Supreme Court decision *Planned Parenthood v. Casey*

² Lewis C.S., (1943), *The Abolition of Man*, Oxford University Press, p.88

manipulate the narrative surrounding the abortion discourse that is aimed at softening our attitudes towards the vice. This is done by the introduction and replacement of the term ‘abortion’ with previously unknown, but modern-sounding terminology - such as: “responsible parenting”, “unwanted pregnancy”, “right of a woman to terminate a pregnancy for health, welfare, and control of her body”, etc. This creates a confusion of minds and values—and also very likely confusion in the country’s legislation. Indeed, there is clear difference between “abortion” and “family planning”. No change of words can change reality. Abortion is the termination of human life in its most vulnerable state; “family planning” simply has a completely different meaning that has nothing to do with killing children. Yet abortion advocates intentionally use these terms to callous the hearts and minds of ordinary citizens into believing that abortion doesn’t actually take a human life.

There are many cultural questions related to long-held African values that are now challenged not only substantively but by the introduction of previously unknown, but modern-sounding terminology -- such as the “right of a woman to terminate a pregnancy for health, welfare, and control of her body.” These ways of speaking are imported from the western rights regimes rooted in individual autonomy and show forth a "contraception mentality" and one of "population control" that are counter to African values. It is a form of linguistic imperialism that attempts to subvert prevailing norms by stealth. A wise adage used by George Orwell and others reminds us that “control of language is control of thinking.” Richard Weaver, an American scholar of the 20th Century, in his book “Ideas have Consequences,” demonstrated the truth of that title, and as well that ideas take shape and are active as language. Another mid-century book by the Thomist scholar Josef Pieper, titled *Abuse of Language, Abuse of Power*, demonstrates the same in examples of such abuse.

These imported ways of thinking and speaking, now becoming current in public discussion in Uganda and elsewhere in Africa, define pregnancy as a problem to be solved or managed rather than as gift of the Creator, within the true nature of human life, in cooperation with the plan and love of GOD. Pregnancy becomes a matter of health alone, and is treated as the province of health care professionals and their patients – the mothers. Childbearing, bringing a child into the world represented in community and family, and then the nurture and formation of the child as a person, is broken into constituent and treatable components – fertility, conception, pregnancy management, labor and delivery, etc.

This then relates to the very individualistic nature of the rights scheme that isolates the particular right of an individual woman and then ignores the family, community and nation. Shifts in language usage to speak of rights as foregone conclusions are understood in western, individualistic ways, and thus presented as unquestionable assertions. For example, a report advocating changing laws and norms in Uganda states:

Uganda's law on abortion prohibits several acts and omissions relating to abortion and sets out to punish women and health workers who perform any of the prohibited acts. And yet it should also be noted that every woman has a right to make decisions relating to her reproductive health and this decision includes the right to terminate or keep a pregnancy. This right can be read into the obligation of the state to provide medical services to the population, to enable women in exercising their full reproductive and maternal functions and the exception to the right to life that prescribes the development of a law that provides for instances in which a pregnancy may be terminated.³

The above language indicates a gradual use of phrases that are shifting the value base of the community; for example: "right to terminate or keep pregnancy". The use of this language is gradually engineering the Ugandan society and it betrays concerted efforts to normalize what has been traditionally considered a repugnant vice. The problem is seen now in numerous demographic portrayals, both in research and more popular literature, of the fate now being addressed in Europe, Russia, China, Japan, etc from populations that are shrinking and suffering rather than flourishing because of these paradigmatic shifts from decades past. These should serve as warnings about a possible future Uganda that places strong emphasis on limiting or reducing population, should it accept the new ideas contained in the new terminology. Those countries submitted to a contraception mentality out of fear of limited resources as well as demands for absolute personal control – from "childbearing" to choice and planned "pregnancies."⁴

It is interesting to note that the same people who argue for "the right to life" for the mother as a justification for the termination of life of the yet-to-be-born child, turn around and deny the "right of life" of that child. This renders the argument either hypocritical or tautological;

³ Center for Reproductive Rights, (2016), *Facing Uganda's Law on Abortion*, Center for Reproductive Rights, July 2016

⁴ See: Mary Eberstadt, (2013), *How the West Really Lost God: A New Theory of Secularization*,

the idea of human rights is simply instrumentalised to justify immoral practices. This is a linguistic shift that is aimed at gradually changing the moral values foundations.

The examination of linguistic imperialism that is creeping in now through the efforts of many NGOs, IGOs, and “scientific” thinkers, could be expansive, but just a few examples can indicate the direction:

- "population" vs "peoples,"
- "reproduction" vs. "childbearing,"
- defining pregnancy as a health problem,
- speaking of "family planning" implying human will and control rather than following the will of God
- “the right to health”
- “termination of pregnancy” rather than aborting a human baby.
- Speaking of motherhood as a form of oppression

Researcher, Marguerite A. Peeters has competently discussed the impact of this kind of language on morals and ethics⁵. In the article, “The new global ethic: Challenges for the Church” Peeters presented her findings that the new linguistic shift is not as innocent as it is usually presented to be; rather it has far reaching consequences by effecting paradigm changes in norms, values, and lifestyles. This trend is causing ‘moral’ and lifestyle confusion both within the Church and the general human society all over the globe. Accepting these terms and the ideas they convey will contribute to the process of erosion of family, community, faith and order in Uganda. They will not bring liberation or development to this land.

⁵ Marguerite A. Peeters, (2009), “The new global ethic: Challenges for the Church”, <<http://www.laici.va/content/dam/laici/documenti/donna/filosofia/english/new-global-ethic-challenges-for-the-church.pdf>>, accessed 10/03/2017

3.0 The vulgarization of the concept of human rights by pro-abortionists

The concept of fundamental human rights is one of the greatest developments of the twentieth century. At its core, the human rights movement recognizes the fundamental dignity and worth of every human being. This belief undergirding the human rights movement is grounded largely in a Judeo-Christian worldview that recognizes the basis of rights as the fact that humans are created in God's image. Uganda should not allow the good concept of 'human rights' to be misused to promote something that is neither 'right' to do, nor good for the 'human' — such as abortion. Instead, it should be used to protect the sanctity and sacredness of every human life, whether it be the unborn, the old, or the disabled. The noble concept of human rights is under attack and is being vulgarized by pro-abortionists. The earliest stage of the human rights movement was very clear on the protection of the sanctity of human life. The growth of human rights movement has undergone three stages, but if we allow it to take the turn of promoting the destruction of human life, then it would become of disservice to humanity and subvert the entire purpose of the movement. If human rights includes the destruction of innocent human life, human rights no longer mean anything.

3.1 Meaning of human right

What is a human right? What does the term 'right' mean? Etymologically the word comes from an old Welsh word, '*reiz*' or the old English word, '*riht*'. This first meant 'just', or 'straight'. It was used to refer to someone of an action being morally upright. It is this meaning that the earliest human rights advocates had in mind in coining the phrase, "***human rights***". For that matter the background of the concept of 'human rights' is a general human subscription to the view that there are enduring standards of morally upright and acceptable treatment of fellow human beings. This understanding of human rights is commensurate with the traditional African value of the respect of life,⁶ and any other view would be contrary to African values.

The same connotation is traceable from the philosophical base on which the concept of human rights is built. When we examine the metaphysical, epistemological and ethical foundations of the concept human rights, we find that it is majorly founded on the

⁶ See: Shivji, I.G, (1989), *The Concept of Human Rights in Africa*, Oxford, African Books Collective

understanding that the ‘humanness’ is shared by all human beings — no matter the stage of life or shape or color⁷. The ‘human’ is the *form* that is found in all the *appearances* of human life. That means that even if from the earliest stage of life the humanness exists and does not magically come in at 7 months or later (as pro-abortionists would want to believe). To claim otherwise is logically inconsistent. Indeed, there is no material difference between the baby in the womb and the baby that passes through the birth canal. Most abortion advocates of course deny this reality. There are, however, at least some that are logically consistent. In the United Kingdom, a group of medical ethicists published an article called “After-Birth Abortion: why should the baby live?” in the Journal of Medical ethics.⁸ According to the authors, “The moral status of an infant is equivalent to that of a fetus in the sense that both lack those properties that justify the attribution of a right to life to an individual.” Accordingly, Parents should be allowed to have their newborn babies killed because they are “morally irrelevant” and ending their lives is no different to abortion.

Earlier historical precursors of legal provisions for individual rights included but are not limited to: Magna Carta (1215), the English Bill of Rights (1689), the Declaration of the Rights of Man and Citizen (1789) in France and the American Bill of Rights (1791). The French and American revolutions were expression of the deep human desire of ‘due treatment’. But these efforts were undermined by deep-seated hypocrisy of claiming to be standing for rights of humans and yet discriminating against naturally occurring sub-categories of persons such as: members of different political ideas, blacks, slaves, women, children, etc. Permitting abortion is no different: it treats an entire class of people as not human.

The struggle for the respect of human rights has come in waves that have come to be referred to as ‘generations of human rights’. The phrase ‘generations of human rights’ was first coined by Karel Vasak in 1977 at the International Institute of Human Rights, Strasbourg⁹. The ‘First generation rights’ focused on civil and political rights such as: the right to vote, etc. The next wave is referred to as ‘Second generation rights,’ and this wave focused on economic, social and cultural rights. That was followed by the ‘Third generation rights,’ such as the: Right to


⁷ See: Hayden P., (2001), *The Philosophy of Human Rights*, Paragon House Publishers

⁸ Alberto Giubilini and Franseca Minerva, and After-birth Abortion: Why should the baby live? (April 13, 2012) <http://jme.bmj.com/content/early/2012/03/01/medethics-2011-100411>.

⁹ Karel Vasak, (1977), “Human Rights: A Thirty-year struggle: the sustained efforts to give force of law to the Universal Declaration of Human Rights”, *UNESCO Courier*, No. 30, pg.11

peace, right to development, environmental rights etc.. However, what is being emphasized by the movement to liberalize abortion laws is leading us into a ‘Confused’ generation of rights (i.e. right to abortion, right to suicide, etc.). Uganda has to guard against such type of thinking because this noble struggle is being taken advantage of for ulterior motives.

A confused generation of human rights?



Generation	Rights of focus
‘Confused generation rights’	(e.g. right to abortion, right to suicide, right to define one’s gender, etc.)
‘Third generation rights’	(e.g. right to development, right to health, environmental rights etc.)
‘Second generation rights’	Economic, social and cultural rights (e.g. right to food, etc.)
‘First generation rights’	Civil and political rights (e.g. right to vote, etc.)

What we are observing is the increasing misuse and misunderstanding of both the concept and the purpose of the human rights struggle. There is a growing call from misinformed western organizations for practices that do not fit to be called human rights, such as ‘abortion’, ‘suicide’, among others and that are being packaged as ‘human rights’.

3.2 Misguided understanding of Human Rights

It is necessary to examine the human rights premises upon which most arguments for the liberalization of abortion laws in Uganda and elsewhere in Africa. This section discusses the viability of the positions held as regards the use of human rights as a basis for a liberalized approach to the matter of abortion.

3.2.1 Vulgarizing the concept of human rights

The argument in support of abortion has undergone a shift by abortion apologists from the common traditional grounds of health risk factors to that of a human right¹⁰. The abortion apologist school is turning around to use terms such as ‘the human right to healthcare’, ‘the human right to maternal health care’, ‘human right to family planning’, etc. We consider the move to argue that abortion is a human right to be an exercise in vulgarization of the good concept of human rights. The concept of ‘human rights’ seeks to promote the dignity of

¹⁰ International Planned Parenthood Federation, (1984), *Human Right to Family Planning*, International Planned Parenthood Federation

human life and personhood. Therefore, there raises a problem of trying to make the human community accept 'abortion' as equivalent to 'the right to family planning'. We all agree that the 'right to healthcare' should be respected and realized; but the question is: is it the same as a 'right to abortion'?

To gain a proper understanding of this distinction, we could use the example of the 'human right to food' in order to analyze it. Human beings have the 'right to adequate food' as provided for under the Universal Declaration of Human Rights (Art. 25), International Convention on Economic Social and Cultural Rights (Art. 11) and Uganda's Constitution (Preamble, XIV.ii). However, these instruments do not provide for the abuse of the right to food; i.e. one cannot use them to defend an abusive definition or understanding of human rights. Likewise, the laws of Uganda provide for the 'right to healthcare,' not the 'right to abusive healthcare'. The two should be separated clearly and if not, this may result into erroneous decisions on the issues of abortion and legislation. Just as it is wrong to argue that it is one's right to food when they eat stones, it is similarly wrong to confuse the right to healthcare with the right to abortion. The right to healthcare exists to protect and promote human flourishing; abortion exists to destroy it.

It must be clearly understood that contending against abortion does not mean opposing human rights. On the contrary, opposing abortion is opposing a practice which is not a human right at all. We want to categorically state that there is no such a thing as a 'human right to abortion'; rather there is a human right to healthcare, and we have no problem with that right. Humans have a right to healthcare, but not a right to abortion. Therefore, the focus should be on improving healthcare and addressing the issues that underlying causes of the poor health system.

It is almost agreed upon everywhere that for a certain right to be real human right, it has to be fundamentally and inalienably part of being human. Rights are meant to respect the being of and promote the life of a human person; this means that anything that destroys, demeans or dehumanizes cannot qualify to be a right. If we accept anything to pass as a human right then we are vulgarizing the whole concept of 'human rights'; we have to be careful such that the human rights movement that has assisted a lot in improving human dignity does not lose

its moral power. If we separate human rights from ethical behavior, there is a danger of falling into a trap of wrongly taking unethical practices as human rights.

3.2.2 Vulgarization of the concept of 'progress'

Most abortion apologists use such a language that is deliberately designed to make readers and listeners to think that being pro-abortion is a mark of 'progress'. They try to depict the image that those who are anti-abortion are 'anti-progress' and backward. For that matter it becomes important to examine this wrong characterization of the concept of progress.

The idea of 'progress' can be traced from the early enlightenment period; and in the modern times the term came to connote cultural or sociological advancement. This influenced the growth of the white man's burden of 'civilizing' the rest of the world; and this later turned into abuses of historical proportions such as slavery, colonization, etc. After the forceful military conquest of other people this enterprise later turned into cultural imperialism that has gradually eroded African cultural values and norms. It has transformed most of the young generation of Africans into persons who have no grounding in either African indigenous or western values.

For that matter it is important to examine how this thinking of 'progress' is affecting African societies; the idea that adopting every value that emerges from the West is progress is an error for which Africans have paid a great price in the past and are still paying. Therefore to think that by adopting Western values that disrespects and lobbies for the legalization of destruction of human beings at a vulnerable stage, is not progress.

The idea of 'progress', as it were, has been expressed by human thinkers for long but it is mainly traced theoretically from the ideas advanced by thinkers like Auguste Comte who provided the philosophical motivation for French and European views of sociological progress. Embedded within this idea is the view that human life and society is progressing on a trajectory of betterment and the work of social scientists is to discover the laws that govern this progression and guide society's decision makers accordingly.

This kind of thinking permeated social and political thinking for a long time. But it suffered a great setback and many skeptics emerged especially after horrible events in which human

engaged; such as the terrible atrocities committed during direct colonial days, the two major World Wars, the German Holocaust, nuclear warfare, and others. Such occurrences exposed the side of human nature and great decadence that 18th and 19th Century Romanticists had glossed over. Auguste Comte and Hegel had promoted the view that historical development was generally progressing towards a better condition; Karl Marx and others of the resultant Critical School presented an interpretation of human history in terms of disruptive and revolutionary episodes albeit violent.

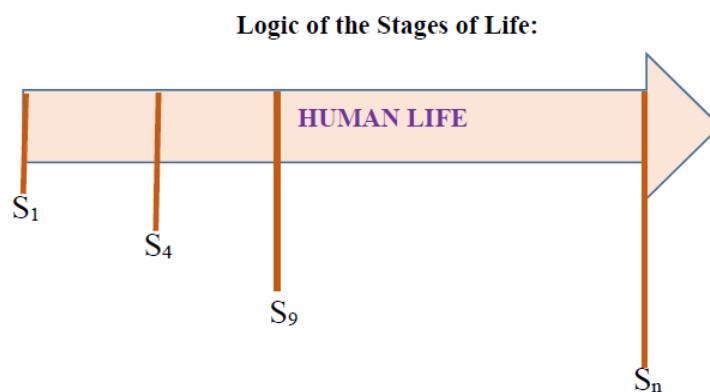
The resultant major divisions of views of human society into such dichotomies as 'Right vs Left', 'Capitalism vs Communism', etc. led to untold suffering, due to episodes such as arms race, and the Cold War, among others. By the collapse of the Berlin Wall, the world was yearning for a peaceful and non-confrontational view of human society. But despite increased skepticism about the idea of 'human progress' there were underground offshoots of ideas such as radical feminism that gained mileage in academia and the politics of the developed countries. Following the vein of the Critical School, radical feminism promised to liberate women the 'Tyranny of Patriarchy' imposed on them by biology. Lofty ideas such as liberating women from having to bear children and making them "equal" to men gained traction in the post-war world. Thinkers such as Simone de Beauvoir promised women 'situated freedom'¹¹ and this excited the imagination of modern society. Women were encouraged to frown upon traditional family values and roles such as child birth, and breastfeeding; and made to look at the traditional family as an unnecessary burden that impedes womens' 'progress'.

However, with the growth of knowledge and re-examining the mistakes of that era, thinkers are increasingly realizing that forcing women to deny their unique and God-given roles as mothers is not progress. A society can never progress when it promotes "rights" that contradict the basic biological roles of humans and the purpose of what it means to be human. And governments can never be just when they act contrary to their basic purpose: protecting innocent life

¹¹ See: Simone de Beauvoir, (2009), *The Second Sex*, (Trans. by: Constance Borde & Sheila Malovany)

3.3 The proper logic for stages of human life

There is an unwritten assumption that human life starts at another stage other than at the point of conception. By all logical standards, this given assumption is quite fallacious and represents deep misguided reasoning that exists within the camp pushing for liberalization of abortion laws in the country. It is illogical to argue that whatever is formed in a mother's womb as the point of conception is not 'actual' or 'full' human life. Such arguments assumed that 'becoming' is what makes human life yet it is 'being'; they confuse 'form' with 'substance'. Life cannot start from a later point different from the point that it started: if conception is point S_1 , and along the way there are various stages of life development and growth, it is obvious that the law cannot be made to recognize life at a later stage than the point of commencement, i.e. conception. Therefore it should be held and maintained in the law that life exists in the mother's womb from conception and the legal requirement for the preservation of life should apply from that stage.



S_1 = conception stage of human life; provides meaning and value

It is simply illogical and intellectually inconsistent—if not dishonest—to hold the view (in all its variations) that value of human life would start at a later stage other than S_1 because the starting point of a life provides the meaning and value of that life. Therefore one cannot argue that at the conception stage life is of less or little value than at a later stage.

3.4 Need for differentiating between maternal health and abortion

There is a misleading confusion between the two concepts of 'maternal health' and 'abortion' within the pro-abortion camp. This confusion needs to be discussed if we are to avoid the

attendant mistakes that may arise from it. In an increasing way, many major players in the international community are focusing on and funding maternal health. The Safe Motherhood Initiative (SMI) that was hatched and launched by the World Health Organization (WHO) in 1987 unleashed a globe move to ensure that fewer and fewer mothers died in childbirth.¹²

According to the World Health Organization (WHO), “A maternal death is the death of a woman while pregnant or within 42 days of termination of pregnancy, irrespective of the duration and the site of the pregnancy, from any cause related to or aggravated by the pregnancy or its management, but not from accidental or incidental causes”¹³ Despite this global definition of maternal death, there is inherently a problematic in terms of usage of phrases as “termination of pregnancy”; this usage infers intentionality which has unviable moral connotations. This also causes some moral ambiguities that create space for moral engineering that does not augur well with some established views on motherhood, childhood and life in general.

It is well known in the healthcare fraternity that the major causes of maternal mortality are natural and they are dominated by: obstructed labor, postpartum hemorrhage, hypertensive disorders and sepsis.¹⁴ Pro-abortionists use the issue of maternal health problems to argue in support of abortion as a major cause of death of women during childbirth. However, as Meghan Grizzle and others have shown, “Although abortion can kill women, it is not the reason that women die in childbirth, and thus distracts from the issue of preventing the vast majority of maternal deaths, which occur from late in the third trimester to shortly after childbirth”.¹⁵ It is important to distinguish between the two i.e. the major health problems that women face in childbirth and abortion; the latter ought not to be classified together with the former causes of maternal mortality.

¹² Starrs M. Ann, (2006), “Safe Motherhood Initiative: 20 years and counting”, *Lancet*, 368; 1130-45

¹³ WHO, (2010), *International Statistical Classification of Diseases and Related Health Problems*, 10th Revision 156 (2010) available at: <http://www.who.int/classifications/icd/ICD10Volume2_en_2010.pdf>

¹⁴ Meghan F. Grizzle, (2012), “Maternal Health”, World Youth Alliance, November 2012, available at: <<http://www.wya.net>>, p.6-7, accessed 15/02/2017

¹⁵ Ibid., p.9

4.0 Proper interpretation of international and domestic legislation on abortion

There is a need to elaborate on the international and domestic legislations that concern abortion as far as Uganda is concerned in order to foster a proper understanding of the same. In this section the paper explicates legal grounds for the rejection of a liberal agenda on abortion.

4.1 Uganda is not legally required to change its abortion laws

a. Domestic Law

Uganda has recognized the inherent worth of the unborn through its strong protection of the right to life. The rights of the unborn were considered and protected in the Ugandan Constitution of 1995, the supreme law of the land, which declares that “[n]o person has the right to terminate the life of an unborn child except as may be authorized by law.”¹⁶ In the almost 22 years since the enactment of the Constitution, the rights of the unborn have continued to be recognized in law as an important value to Ugandans. For example, the Penal Code Act of 1950 criminalizes attempting, providing for, procuring, or participating in an abortion or induced miscarriage.¹⁷

Further, Ugandan domestic law specifies that acting with an intent to kill or cause grievous bodily harm to an unborn child is equal to murder because the *mens rea* of murder is satisfied.¹⁸ Though some Ugandan case law references a belief that the unborn child is regarded as part of the mother until it has an independent existence from the mother,¹⁹ this has been interpreted to impute intent to kill the mother of the child even when a person intended to kill just the unborn child.²⁰ The courts have held that an intent to kill an unborn child establishes the malice aforethought necessary for murder, recognizing that unborn

¹⁶ Constitution of Uganda, Article 22(2).

¹⁷ Penal Code Act of 1950, §§ 141–143, 212. A “threat to life” exception has allowed an abortion when the health of the mother is at risk. *Id.* at 224.

¹⁸ *Uganda v. Kafuruka*, HCT-05-CR-SC-0191 of 2002, (Feb. 3, 2006), <http://www.ulii.org/ug/judgment/high-court/2006/2/>.

¹⁹ *Id.*, citing Brian Hogan & J.C. Smith, *Criminal Law: Cases and Materials*, BUTTERWORTHS 6th Ed., at 396 (1996).

²⁰ *Kafuruka*, *supra* note 18, citing Attorney General’s Reference (No. 3 of 1994) 1996 2 ALL ER.

children are human beings.²¹ Further, the judiciary has recognized that abortion is a crime not only against the unborn child but also against the woman. And in criminal trials for aggravated defilement, the fact that a woman has committed an abortion is a contributing factor to justify a stricter sentence for a convict.²²

Further, the family is recognized as the foundation of Ugandan society and as worthy of protection. Abortions can disrupt a family relationship, especially when women are pressured into abortion by a family member. Abortions can also lead to divorces or relationship strife. In countries where abortion is legal, giving mothers the option of aborting their child, the biological father often considers himself justified in abandoning his parental duties. In those cases, the mother has the sole choice of aborting her child, which has led to a decline in men who want to be actively involved in marriage and parenting.

In short, Ugandan domestic law recognizes the unborn child's right to life and the harm that abortion can cause to mothers and fathers.

b. International Law

International law similarly does not require Uganda to change its law prohibiting abortion. Neither the African Charter, human rights treaties, nor general international law contain a right to abortion. As a sovereign nation with its own unique culture and traditions, Uganda is well within its rights under international law to protect the lives of unborn children and prohibit abortion.

i. African Charter on Human & Peoples' Rights

The African Charter on Human and Peoples' Rights²³ contains absolutely no right to abortion. First, the text nowhere mentions or even hints at a right to abortion. On the contrary, Article 18 of the African Charter, like Ugandan domestic law, recognizes that "the family" is the "natural unit and basis of society."²⁴ It further states that the family must be "protected by the State" and the state must "assist the family which is the custodian of morals and

²¹ *Kafuruka*, *supra* note 18.

²² *Uganda v. Aweskonimungu*, Crim. Case 0186 of 2014, UGHCCRD 129 (23 Dec. 2016).

²³ African (Banjul) Charter on Human and Peoples' Rights, (Adopted 27 June 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force 21 October 1986) [hereinafter Maputo Protocol].

²⁴ Art. 18(1).

traditional values recognized by the community.”²⁵ Granting a right to abortion is the antithesis of protecting the family unit and is inconsistent with the “traditional” values of Uganda. And although perhaps not guaranteeing a right to life for the unborn, Article 18 gives Uganda an affirmative duty to protect the family. Family is not a defined term, but it certainly encompasses children, and can fairly be construed to encompass unborn children. In other words, the African Charter can in no way be said to grant a right to abortion, and, if anything, favors a right to life for the unborn.

Second, the African Court has never interpreted the Charter as including a right to abortion, and Uganda is not bound by the provision in the Maputo Protocol that grants a partial right to abortion. The argument in favor of granting a limited right to abortion in Africa comes from the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa, also known as the Maputo Protocol.²⁶ The Protocol entered into force in 2005 and has been ratified by 36 of 54 African nations, including Uganda.²⁷ Under Article 14, states parties are obligated to “take appropriate measures to . . . protect 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 foetus.”²⁸

Uganda, however, when it acceded to the Maputo Protocol, explicitly rejected this article through a valid and legally binding reservation.²⁹ The reservation reads as follows: “Article 14(2)(c): interpreted in a way conferring an individual right to abortion or mandating a State Party to provide access thereto. The State is not bound by this clause unless permitted by domestic legislation expressly providing for abortion.”³⁰ Accordingly, as a sovereign state,

²⁵ Art. 18(1), (2).

²⁶ African Commission on Human and Peoples’ Rights, Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa art. 14(2)(c), Sept. 13, 2000, CAB/LEG/66.6, reprinted in Martin Semalulu Nsibirwa, A Brief Analysis of the Draft Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women, 1 Afr. Hum. Right L.J. 40, 53 (2001) [hereinafter Maputo Protocol].

²⁷ African Commission on Human and Peoples’ Rights, Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa, *available at*: <http://www.achpr.org/instruments/women-protocol/>.

²⁸ Maputo Protocol, *supra* note 26, art. 14(2)(c).

²⁹ Under international law, a reservation is “a unilateral statement, however phrased or named, made by a State, when signing, ratifying, accepting, approving or acceding to a treaty, whereby it purports to exclude or to modify the legal effect of certain provisions of the treaty in their application to that State.” Vienna Convention on the Law of Treaties, art. 1(d) (23 May 1969).

³⁰ Uganda, Interpretive Declaration to art. 14(2)(c) of the Maputo Protocol (22 July 2010), *available at* <http://www.peaceau.org/uploads/special-rapporteur-on-rights-of-women-in-africa-presentation-for-csw-implementation.pdf>.

Uganda made clear that under no circumstances will it be legally bound to recognize a right to abortion under the Charter or the Maputo Protocol. Only if Uganda legalizes abortion through its domestic law will abortion be permitted in Uganda.

Furthermore, and standing in stark contrast to Article 14 of the Maputo Protocol, is the African Charter on the Rights and Welfare of the Child. Under Article 2, “child” is defined as “every human being below the age of 18 years.”³¹ Article 5 then grants every “child” “an inherent right to life” that must “be protected by law.”³² Uganda, as a sovereign nation under international law, is well within its legal rights to interpret “human being” as including unborn children. In short, the African Charter contains no right to abortion, and Uganda has validly interpreted its obligations under the Charter and corresponding protocols to encompass a duty to protect unborn children.

ii. Human Rights Treaties

No treaty that Uganda has ratified recognizes a right of abortion.³³ Though liberal organizations try to conjure up a right to abortion in some international treaties, no such “right” exists; rather, as will be shown, international treaties emphasize a protection of life. Even so, a treaty is only binding on a sovereign state when the state has given its “free consent” to terms recognized in “good faith,” a principle known as *pacta sunt servada*.³⁴ The text of each treaty should be interpreted according to its original, ordinary meaning,³⁵ instead of looking for ways to impute false rights, like abortion, where none exists. No right to abortion existed when Uganda ratified these treaties, no treaty mentions the word “abortion” or implies that it is a right, and no amount of creative interpretation can change this. Uganda is not obligated to grant a right to abortion, and as a sovereign nation, it can choose to protect life because international human rights treaties guarantee the right to life for all human beings, which Uganda believes includes unborn children.

The Universal Declaration of Human Rights (UDHR) – which is not a treaty but is recognized as aspirational in the scheme of international law – provides the foundation for international

³¹ Art. 2.

³² Art. 5(1).

³³ Piero Toxxi, *International Law and the Right to Abortion*, at 5; see also Black’s Law Dictionary 1109 (6th ed. 1990).

³⁴ *Id.*

³⁵ *Id.*; see also Vienna Convention, art. 31(1).

human rights. It states that “the inherent dignity and of the equal and unalienable rights of all members of the human family is the foundation of freedom, justice, and peace in the world,” and Article 3 proudly declares that “[e]veryone has the right to life, liberty, and security of person.”³⁶ This makes no distinction between rights of the born and the unborn. However, abortion advocates use the UDHR to focus only on women’s rights, using the right to life, liberty and security of person from only the woman’s perspective, and even go so far as to say Article’s 5 prohibition on the use of cruel, inhumane, and degrading treatment can be applied in situations of unwanted pregnancy.³⁷ However, they neglect to mention the cruel, inhumane and degrading treatment that abortion causes to the unborn child. Uganda has chosen to protect the unborn from murder, and the UDHR certainly does not require it to do otherwise.

Uganda has also ratified the International Covenant on Civil and Political Rights (ICCPR), which contains no mention of a right to abortion, and, if anything, grants a right to life for unborn children. Like the UDHR, the ICCPR recognizes that “the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,”³⁸ and specifically provides that “[e]very human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.”³⁹ Although this article has not been interpreted to require states to prohibit abortion, Uganda, as a sovereign nation, has interpreted this Article to provide a right to life for the unborn. Moreover, the ICCPR protects the unborn by prohibiting capital punishment of pregnant women.⁴⁰ Abortion advocates could argue that the right to life of the mother is all that should be protected under that article, but Uganda has recognized the right to life in favor of life throughout pregnancy, identifying that the unborn are human beings within the protection of this and other treaties.

Uganda is also a signatory to the International Covenant on Economic, Social and Cultural Rights, which also provides no right to abortion. Rather, the ICESCR recognizes the high rates

³⁶ G.A. Res. 217A (III) A, Universal Declaration of Human Rights (Dec. 10, 1948).

³⁷ *Safe and Legal Abortion is a Human Right*, CTR. REPROD. RTS, Oct. 2011, Table I, https://www.reproductiverights.org/sites/crr.civicactions.net/files/documents/pub_fac_safeab_10.11.pdf.

³⁸ International Covenant on Civil and Political Rights, Preamble, UNTS, Vol. 999, No. 14668, at 172 (1976), https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-4&chapter=4&clang=_en.

³⁹ *Id.* Article 6(1).

⁴⁰ *Id.*

of infant mortality and stillbirths and seeks to address the issue, providing for the healthy development of the child instead of promoting termination of the unborn.⁴¹ Abortion advocates argue that the right to “the highest attainable standard of physical care and mental health”⁴² gives women the right to abortion.⁴³ They also allege the right to enjoy the benefits of scientific progress should provide women access to abortion, an attenuated argument.⁴⁴ However, these arguments completely ignore the text of the treaties, which grant no right to abortion, and they also fail to address the health risks that remain even with legal abortions and the mental toll that abortions have on women.⁴⁵ The fact that abortion proponents even make these attenuated arguments is proof in and of itself that these treaties grant no right to abortion.

Similarly, the Declaration of the Rights of the Child and the Convention on the Rights of the Child state that “the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth.”⁴⁶ Despite the fact that abortion is nowhere mentioned in the article, explicitly or implicitly, abortion proponents argue that the children protected by this article include those bearing an unwanted pregnancy, and fulfilling their rights to “care” requires providing them access to abortion as a means to provide for their health and “care.”⁴⁷ However, aside from being unsupportable by the text and drafting history, this argument fails to address the health and safety of the unborn child, whom Uganda has chosen to protect. The truth is that the Convention on the Rights of the Child never explicitly protects abortion or declares that it is necessary for the protection of the children; indeed, the CRC was carefully drafted to avoid addressing abortion.⁴⁸ However, the Committee that governs the Convention on the Rights

⁴¹ International Covenant on Economic, Social and Cultural Rights, UNTS, Vol. 993, No. 14531, Art. 12(2)(a) at 8 (1976) *adopted* Dec. 16, 1966, art. 12 G.A. Res. 2200A (XXI), U.N. GAOR, Supp. No. 16, U.N. Doc. A/6316 (1966) (*entered into force* Jan. 3, 1976), [hereinafter ICESCR].

⁴² *Id.* at art. 12.

⁴³ CTR. REPROD. RTS, *supra* note 37.

⁴⁴ *Id.*

⁴⁵ Abortion Emotional Side Effects, AMER. PREGNANCY ASS’N, (last updated Sep. 3, 2016 at 1:41 AM) <http://americanpregnancy.org/unplanned-pregnancy/abortion-emotional-effects/> (stating that women who have an abortion may experience psychological effects including anxiety and depression.)

⁴⁶ Declaration of the Rights of the Child; Convention on the Rights of the Child, adopted Nov. 20, 1989, art. 24(3), G.A. Res. 44/25, annex, U.N. GAOR, 44th Sess., Supp. No. 49, U.N. Doc. A/44/49 (1989) (*entered into force* Sept. 2, 1990).

⁴⁷ *Reproductive Rights Under the Convention on the Rights of the Child*, CTR. REPROD. RTS., (June 2014) https://www.reproductiverights.org/sites/crr.civicactions.net/files/documents/Wright_Glo%20Adv_7.15.14.pdf.

⁴⁸ Luisa Blanchfield, Specialist in International Relations, *The United Nations Convention on the Rights of the Child*, at 13, C.R.S. R40484, <https://fas.org/sfp/crs/misc/R40484.pdf>.

of the Child is a strong advocate of the “right” to abortion, which it grounds in “children’s rights,” and pushes for states to legalize it, particularly for minors.⁴⁹ However, Uganda is not bound by the Committee’s interpretations. Indeed, ratifying the Convention on the Right of the Child did not bind any nation to the dicta of the Committee on the Rights of the Child. Many nations who continue to prohibit abortion have ratified the Convention⁵⁰ and the fact that the Committee is urging nation states to adopt liberal reproductive rights policies that include unrestricted access to abortion does not in any way legally obligate nations who have ratified the Convention to change their laws.

The San Jose Articles are insightful paraphrases of where international law stands on abortion. The Articles were compiled and signed by professors, lawyers and advocates, leaders, diplomats, elected officials, and heads of international organizations from around the world.⁵¹ They emphasized that human life begins at conception⁵² and that international law recognizes the inherent dignity of all human beings⁵³ and does not recognize the right to abortion.⁵⁴ According to the Article, treaty monitoring bodies, such as the Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW Committee), are attempting to pressure countries to legalize abortion, but the Articles note that these bodies have no authority in-and-of themselves to force a country or state to do so;⁵⁵ rather, states can

⁴⁹ *Reproductive Rights Under the Convention on the Rights of the Child*, *supra* note 47.

⁵⁰ Blanchfield, *supra* note 48, at 13.

⁵¹ *San Jose Articles*, Mar. 25, 2011, <http://sanjosearticles.com/wp-content/uploads/2012/02/SJA.pdf>.

⁵² *San Jose Articles*, Mar. 25, 2011, <http://sanjosearticles.com/wp-content/uploads/2012/02/SJA.pdf>, Articles 1–3.

(“Article 1. As a matter of scientific fact a new human life begins at conception. Article 2. Each human life is a continuum that begins at conception and advances in stages until death. Science gives different names to these stages, including zygote, blastocyst, embryo, fetus, infant, child, adolescent and adult. This does not change the scientific consensus that at all points of development each individual is a living member of the human species. Article 3. From conception each unborn child is by nature a human being.”).

⁵³ *Id.* at Article 4 (“All human beings, as members of the human family, are entitled to recognition of their inherent dignity and to protection of their inalienable human rights. This is recognized in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and other international instruments.”).

⁵⁴ *Id.* at Article 5 (“There exists no right to abortion under international law, either by way of treaty obligation or under customary international law. No United Nations treaty can accurately be cited as establishing or recognizing a right to abortion.”).

⁵⁵ *Id.* at Articles 6–7 (“Article 6. The Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW Committee) and other treaty monitoring bodies have directed governments to change their laws on abortion. These bodies have explicitly or implicitly interpreted the treaties to which they are subject as including a right to abortion. Treaty monitoring bodies have no authority, either under the treaties that created them or under general international law, to interpret these treaties in ways that create new state obligations or that alter the substance of the treaties. Accordingly, any such body that interprets a treaty to include a right to abortion acts beyond its authority and contrary to its mandate. Such ultra vires acts do not create any legal obligations for states parties to the treaty, nor should states accept them as contributing to the formation of new customary international law. Article 7. Assertions by international agencies or non-governmental actors that abortion is a human right are false and should be rejected. There is no international legal obligation to provide

“invoke treaty provisions guaranteeing the right to life as encompassing a state responsibility to protect the unborn child from abortion.”⁵⁶ Governments and citizens are encouraged to promote laws that protect human life from conception, rejecting pressure to adopt laws that legalize or de-criminalize abortion.⁵⁷

Uganda is a sovereign nation and as such they are not bound to follow bogus interpretations of human rights treaties that they have not ratified or accepted.⁵⁸ Sovereignty not only protects the “territorial integrity of states” but also the “cultural norms and traditions of a self-governing people . . . from imperialistic encroachment by outsiders who seek to impose alien values.”⁵⁹ Further, the above analysis reveals that the treaties which Uganda has ratified do not recognize a right to abortion or prescribe a particular standing on abortion. Uganda’s choice to recognize the inherent dignity, value, and sanctity of the lives of unborn children should be upheld and respected.

iii. General International Law⁶⁰

Not only do none of the human rights treaties grant a right to abortion, but general international law does not as well. Abortion is simply not a right under general (customary) international law, and Uganda is well within its rights to prohibit the practice entirely. In a 2015 report, Amnesty International⁶¹ claimed that Ireland’s constitutional recognition of the right to life for unborn children is “inconsistent with international human rights law, which does not recognise a foetal (sic) right to life and is clear that human rights apply after birth.” In other words, Amnesty International argued that because international law does not contain

access to abortion based on any ground, including but not limited to health, privacy or sexual autonomy, or non-discrimination.”).

⁵⁶ *Id.* at Article 8.

⁵⁷ *Id.* at Article 9 (continuing with an admonition to the United Nations and similar groups: “Treaty monitoring bodies, United Nations agencies and officers, regional and national courts, and others should desist from implicit or explicit assertions of a right to abortion based upon international law. When such false assertions are made, or pressures exerted, member states should demand accountability from the United Nations system. Providers of development aid should not promote or fund abortions. They should not make aid conditional on a recipient’s acceptance of abortion. International maternal and child health care funding and programs should ensure a healthy outcome of pregnancy for both mother and child and should help mothers welcome new life in all circumstances.”).

⁵⁸ Piero A. Tozzi, *International Law and the Right to Abortion*, Intern’l Law Group Organizations, Legal Studies Series Number One, at 4 (2010).

⁵⁹ *Id.*

⁶⁰ This section was adapted from an article published by Regent University Law Professor, S. Ernie Walton: *Ireland’s Abortion Prohibition Does Not Violate International Human Rights Law*, CNSNews.com (June 19, 2015), <http://www.cnsnews.com/commentary/s-ernie-walton/irelands-abortion-prohibition-does-not-violate-international-human-rights>.

⁶¹ Report at: http://www.amnestyusa.org/sites/default/files/she_is_not_a_criminal_-_embargoed_09_june.pdf

a right to life for unborn children, then international law must prohibit states from outlawing abortion. This argument flips the foundation of international law — the sovereign equality of all states — on its head. The simple fact is that customary international human rights law grants no right to abortion and is, at worst, likely silent on the right to life for the unborn. As shown above, none of the human rights treaties contain a right to abortion, and there is certainly no right to abortion under customary international law either.

International law is premised on the doctrine of the sovereign equality of all States.⁶² One logical consequence of sovereign equality is that States are free to act in the absence of a direct prohibition. This principle was most famously articulated in the landmark 1927 S.S. Lotus case.⁶³ In that case, the Permanent Court of International Justice stated:

*International law governs relations between independent States. The rules of law binding upon States therefore emanate from their own free will as expressed in conventions or by usages generally accepted as expressing principles of law and established in order to regulate the relations between these co-existing independent communities or with a view to the achievement of common aims. Restrictions upon the independence of States cannot therefore be presumed.*⁶⁴

Thus, where international law is silent, States are free to act. International law is wholly silent on a right to abortion. Even the liberal European Court of Human Rights, in *A, B, & C v. Ireland*, recently recognized that the European Convention on Human Rights grants no right to abortion.⁶⁵ And that same Court, years earlier, stated that “[i]t may be regarded as common ground between States that the embryo/fetus belongs to the human race.”⁶⁶

⁶² E.g., United Nations Charter, art. 2(1).

⁶³ The Case of the S.S. Lotus, Series A. No. 10 (Sept. 7, 1927) (Perm. Court of Int’l Justice), available at http://www.icj-cij.org/pcij/serie_A/A_10/30_Lotus_Arret.pdf.

⁶⁴ *Id.* at 18. Despite the claim of many international law scholars that this principle no longer represents the status of modern international law, the International Court of Justice indirectly confirmed the “Lotus principle” in its 2010 Advisory Opinion on the legality of Kosovo’s unilateral declaration of independence. *See generally* Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo I.C.J. Reports 2010, 403, 438–39 (ICJ, July 22, 2010) (Advisory opinion) (“For the reasons already given, the Court considers that general international law contains no applicable prohibition of declarations of independence. Accordingly, it concludes that the declaration of independence of 17 February 2008 did not violate general international law.”), available at <http://www.icj-cij.org/docket/files/141/15987.pdf>.

⁶⁵ *A, B and C v. Ireland*, 2010 Eur. Ct. H.R. 1., para. 214 (“While Article 8 cannot, accordingly, be interpreted as conferring a right to abortion”)

⁶⁶ [*Vo v. France* (53924/00, GC, 8 July 2004, at § 84)].

Accordingly, Amnesty International is wrong. There is no right to abortion under international human rights law, and in the absence of this prohibition, Uganda and every other nation is free to outlaw abortion and grant unborn children the right to life. And from a purely logical standpoint, the absence in international law of an affirmative right to life for unborn children, which is certainly disputed, in no way translates into a positive right to abortion. Lack of X does not equal Y; it simply equals not X. This is particularly true under international law, where "restrictions upon the independence of States cannot [] be presumed."⁶⁷

To the natural law school of thought that would disagree with this positivist characterization of the international legal system, natural law only confirms, not undermines, this argument. Modern international law finds its most recent roots in the United Nations Charter, created after World War II. Much of the Charter and its progeny (e.g., the Universal Declaration of Human Rights (UDHR); the Genocide Convention) were based in natural law and specifically formulated to prevent another Nazi Germany, where the utter lack of respect for human life was at its zenith. The preamble to the UDHR captures this idea well, stating that "recognition of the inherent dignity and of the equal and inalienable rights of *all members of the human family* is the foundation of freedom, justice and peace in the world."⁶⁸ Accordingly, much of post-World War II international law embodied the notion that the international community should err on the side of life, even at the expense of State sovereignty. While States were sovereign, natural law mandated that certain things were off limits for all States.

Thus, to the extent that there is somehow any room for debate over whether the unborn are humans, entitled to the same right to life under international law as the born, natural law and the modern roots of international law err on the side of life. Lindsay Walton (Jonker), law clerk to the honorable D. Arthur Kelsey, Virginia Supreme Court Justice, explained this best in her article, *Learning from the Past: How the Events that Shaped the Constitutions of the United States and Germany Play out in the Abortion Controversy*, 23. Regent U. L. Rev. 447 (2011). Walton compared the U.S. Supreme Court's abortion jurisprudence to that of the German Supreme Court, specifically examining how the destruction of life under the Nazi regime influenced the German Supreme Court in its abortion jurisprudence to err on the side of the unborn. She stated: "Without our own [U.S.] history to inform us of the consequences of

⁶⁷ The Case of the S.S. Lotus, Series A. No. 10, at 18 (Sept. 7, 1927).

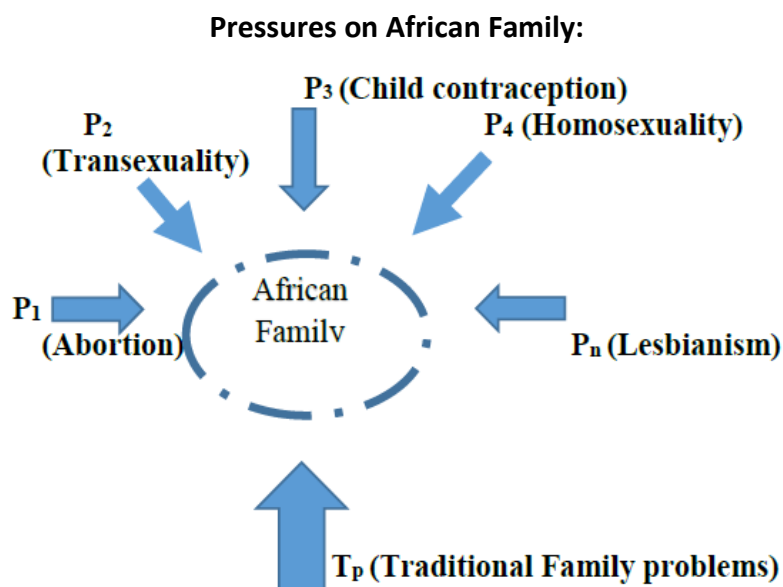
⁶⁸ Universal Declaration on Human Rights, prml.

massive violations of human dignity, can the United States not learn from the Germans that, out of respect to life, the fetus must be attributed personhood that merits significant State protection, at any term of a pregnancy?"

In other words, history and natural law teach us to err on the side of life where there is any doubt. Germany learned this lesson, and modern international law largely agrees. Accordingly, abortion is not only not a right under positive nor natural law-based international law, but the international community, including Uganda, would be well within legal limits, positive and natural, to continue to recognize a right to life for the unborn.

5.0 Brief Comment on Artificial demographics and family pressures

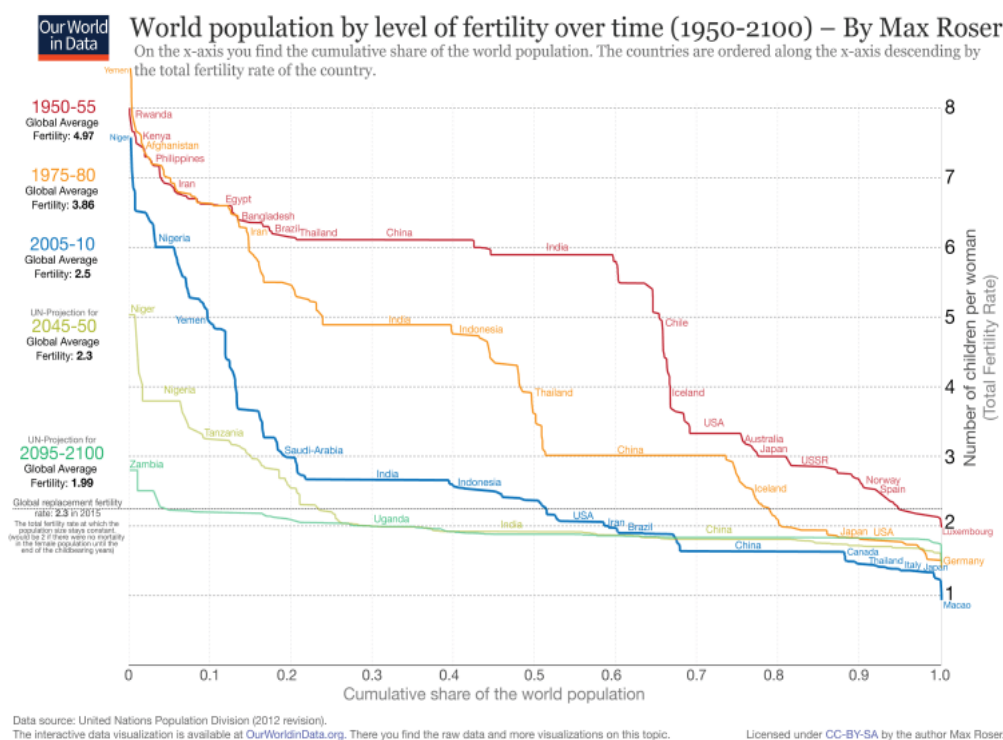
From the history of the Western countries that have liberalized family values and life matters over the years we learn that it has come at a high cost and turned into a demographic boomerang. These countries are watching their population decrease and in some of them there are reports of number of deaths exceeding number of births. This is an accumulation of ideas that have gradually attacked the family from various angles, thinkers like Thomas Malthus and Paul Ehrlich expounded views such as “natural population cycles” and “population bomb”, etc. The promotion of practices such as: childhood contraception, lesbianism, homosexuality, adult contraception, abortion, etc. will automatically have lasting depressing impact on the demographic dynamics.



The African family that has traditionally relied on long established norms and values to survive is facing many pressures which are mostly ‘artificial’ i.e. externally induced. In the diagram above, P_1 up to P_n represent the many pressures that are affecting the number of children born in a normal family. These are the various tools that are being used to keep the number of children few in an African family. When all these tools that are applied to pressurize the family, the result is a drastic and unnatural drop in the number of children born in a normal family – for that reason, these pressures are artificial. And the cumulative impact of these pressures over time results in effects such as what is being witnessed in most of the European countries where in some instances, the numbers of deaths are increasing more than births.⁶⁹

⁶⁹ See: BBC, (2017), “The Spanish government appoints a ‘minister for sex’”, <<http://www.bbc.co.uk/bbcthree/item/b25dfefd-3974-4ca0-a112-4924b6d7f50c>>, accessed

There are many natural and artificial pressures that are affecting human fertility today and for that matter it would be short-sighted to legally approve another human induced threat on our demography. In 2016, Max Roser, an Oxford university researcher established that, “Global human population in on the decline. The fertility of half of the world’s population is already below the replacement ration...facts run counter to the traditional story of an out of control soaring word population”⁷⁰. Global data indicates that Total Fertility Rate (TFR) is declining and projected to continue falling further from 4.97 during the period 1950-1955 to 1.90 by 2095-2100.



⁷⁰ Max Roser, (2016), “Fertility”, <<https://ourworldindata.org/fertility/>>, 11/07/2016, accessed 12-03-2017

6.0 Uganda should not liberalize its abortion laws

Uganda is not legally obligated to change its abortion law and neither *should* it do so. Several policy reasons counsel in favor of continuing to outlaw abortion. First, abortion is a form of neo-colonialism that liberal western elites are attempting to force on Uganda and other African nations against their sovereign and independent will. Second, when abortion is authorized, girls are often targeted at a higher rate than boys; this can have a devastating long-term effect on society. Third, and contrary to liberal rhetoric, when abortion is legalized it does not remain safe and rare; on the contrary, when abortion is legalized, the numbers increase rapidly and are very hard to bring down absent drastic legal change. Fourth, medical evidence convincingly proves that abortion kills a human being and causes serious psychological and physical health problems to the mother.

a) Abortion is a form of Neo-Colonialism that is Inconsistent with African Values

The push by western funded organizations for the liberalization of abortion laws should be considered a form of neo-colonialism and is inconsistent with long-standing African values of life. Archbishop of Mbarara, Paul Bakyenga, stated in 2006:

It is our duty as Pastors and citizens to remind our fellow Catholics and our fellow Ugandans that the very purpose of the law is to foster the common good. The common good is undermined, indeed betrayed, when a society fails to protect its weak and defenceless members. Abortion, regardless of the reasons leading to it, is always an attack on the weakest and the most defenceless members of our society. We are obliged to put this point strongly before our fellow countrymen: abortion — the deliberate termination of a pregnancy at any stage of its development — is always an objective evil. No legislation can change it into something good. This is the law of God, which anyone can find enshrined in the natural law. We therefore appeal to the legislators of the country not to yield on this fundamental point. Abortion is an objective evil and our legislation must never seek to legitimise it.⁷¹

Uganda is a predominantly religious nation, with about four-fifths adhering to Christianity, one tenth Muslim, and the remainder recognizing traditional religions.⁷² Christianity recognizes the humanity of the unborn, recognizing that all humans are created in the image

⁷¹ *An Open Letter to the Government and People of Uganda*, Catholic Bishops' Conference of Uganda, Jan. 19, 2006, <http://www.ewtn.com/library/BISHOPS/letterbpsuganda.htm>.

⁷² Uganda: Religion, ENCYCLOPEDIA BRITANNICA, <https://www.britannica.com/place/Uganda/Religion> (last visited Feb. 13, 2017).

of God,⁷³ that God forms each child in the womb⁷⁴ and realizes abortion is murder, which is prohibited by God.⁷⁵

b) Abortion is a secular, western “right”

Abortion in the secular or western world is considered a “right” for women and a matter of privacy—rather than a moral issue. The foundation of this worldview is based on a western perspective of motherhood that considers motherhood to be a form of oppression of women in a patriarchal society. These same views are reflected in perspectives on pregnancy, childbirth, and the independence of women, as championed by western feminists. The basis of the Western worldview of motherhood places the protection of the beginning of life secondary to the so-called “rights” of women. Because the end goal for the secularist is to “liberate” women from the bondage of having to bear children and male oppression, unborn children are nothing but an obstacle that must be eliminated.

In stark contrast to Western perspectives, most African cultures value motherhood and childbirth as sacred and fulfilling events marked by diverse cultural traditions; birth rituals are therefore heralded by the community. In most African cultures, children are considered a blessing and a sign of wealth and prosperity. In this sense, the African culture resembles biblical principles that value life from conception. For example, Psalm 127:3 states, “Children are a heritage from the Lord, and the fruit of the womb his reward.” Thus, an embryo at even the earliest stage of “the fruit of the womb” is a divine blessing from God. Similarly, a Bantu proverb reflecting the need to respect life states, “Respect a little child, and let it... [give it the chance] to respect you.” John Mbiti, a theologian, pastor, and teacher, known as a father of African philosophy, has discussed the importance and the value of children to the whole community, stating that births in African cultures are the celebration of the strength of motherhood and the addition of life to the community. Indeed, in most collectivist cultures, a child does not exclusively belong to the woman or the nuclear family but to the community; thus, the loss of a child—even from conception—is a loss for the community. The value attached to a child is so high that in most native African languages abortion simply cannot have a positive connotation that is not attached to violence, deep loss or grief.

⁷³ *Genesis* 1:26-27; 5:1-2; 9:6; *Psalms* 100:3; *Isaiah* 45:9-10; *Zechariah* 12:1; *1 Cor.* 11:12

⁷⁴ *Job* 31:15; 33:4; *Psalms* 22:9-10; 71:6; 139:13-16.

⁷⁵ *Genesis* 4:8-12; 9:5-6; *Exodus* 20:1, 13; 21:12-14; *Leviticus* 24:17.

In her review of motherhood in African cultures in literature and religious studies, author Remi Akujobi criticized the Western feminist perspective regarding the victimization of women in human endeavors. She explains that motherhood is a highly-revered status in African cultures because “through the womb of a woman all humanity passes.” Further, motherhood is critical for most traditional African cultures because “there is no worse misfortune for a woman than being childless....she is seen as incomplete...dead end of human life, not only [at the] genealogical level but for herself.”

Despite these deep-rooted beliefs in African culture, key parts of Ugandan government have been affected by Western agendas, as shown by the recent publication of the Uganda Ministry of Health: *“Reducing Maternal Morbidity and Mortality from Unsafe Abortion in Uganda.”*⁷⁶ This publication was sponsored by organizations such as the International Planned Parenthood Federation – which has been known to have sold aborted baby parts illegally – and the Marie Stopes Foundation, a leading global abortion provider.⁷⁷ The Ministry’s proposed program would authorize abortion for an unlimited variety of reasons, for minors without consent, and up through 27 weeks gestation.⁷⁸

The role of western funded abortion promoters such as the International Planned Parenthood Federation (IPPF) should not be overlooked. Such organizations are pushing for absurd and radical interpretation of human rights and they are referring to as ‘the human right to family planning’⁷⁹. More and more researchers are pointing out that this absurd approach to human rights is being disguised as ‘reproductive health service’ to provide illegal abortion services in poor countries especially in Africa^{80 81}. It is therefore important to take serious note of the fact that the recent upsurge in advocacy and artificial push for expansion of abortion grounds

⁷⁶ Analysis by Fr. Jonathon Opiyo, Director, HLI Uganda & Thomas Jacobson, Executive Director, Global Life Campaign, § 3 (Nov. 5, 2015) (retrieved from http://media.wix.com/ugd/cacd2b_fa8b842b56e148e984089b091f1610fd.pdf).

⁷⁷ *Id.*

⁷⁸ *Id.* § 4.

⁷⁹ International Planned Parenthood Federation, (1984), *Human Right to Family Planning*, International Planned Parenthood Federation

⁸⁰ Sarah MacDonald, (2017), “New video exposes Marie Stopes’ abortion ‘mission’ in Africa”, <<https://www.catholicireland.net/new-video-exposes-marie-stopes-abortion-mission-africa/>>, accessed 01/03/2017

⁸¹ The Christian Institute, (2017), “British taxpayers funding illegal abortions in Africa”, <<http://www.christian.org.uk/news/british-taxpayers-funding-illegal-abortions-africa/>>, accessed 01/03/2017

is not originating from local citizens but it is being externally pushed. The Population Research Institute reports that,

*For more than three decades, the International Planned Parenthood Federation has lobbied worldwide for the liberalization and eventual repeal of all laws that place any restrictions whatever on access to abortion*⁸².

In Uganda, the International Planned Parenthood Federation has clandestinely and cunningly changed its name to 'Reproductive Health Uganda' (RHU); and this is perceivable as a ploy to hoodwink the Uganda public and make the organization appear as a benign agency. It is reported that IPPF, "...exerts unparalleled influence on national policymaking regarding population issues. In the last 25 years alone, IPPF has expended the equivalent of more than two billion U.S. dollars (mostly provided by the governments of developed countries) in pursuit of its goals"⁸³. This influence has been traced to be held since colonial times; and some researchers have discovered that in some instances such 'unparalleled influence on national policymaking regarding' was coopted into the colonial government designs to control the population of the natives⁸⁴. Karl Ittmann and other authors argue that historical role of the IPPF in the East African countries has been checkered and unsaintly because of the organization's involvement in population control. This was done to help the British colonial government keep the natives numbers in check by use of medical methods. In other words the IPPF is historically been a 'population control' agency for the colonial enterprise.

c) African nations reject abortion

A milestone research carried out in 2014 by Pew Research and conducted around the globe found out that over 80% of Africans rejected abortion as unacceptable. In Uganda, in particular, over 88% of the population rejected abortion⁸⁵. This means when organizations that follow moral ideologies crafted in countries where abortion is accepted work underground to undermine the moral views of Africans they are actually engaging in 'cultural

⁸² Population Research Institute, (2016), "Abortion for all: How the International Planned Parenthood Federation promotes abortion around the world", <<https://www.pop.org/content/abortion-for-all-how-the-international-planned-parenthood-federation-promotes-abortion-around-the-world-894>>, accessed 01/03/2017

⁸³ Ibid.

⁸⁴ Karl Ittmann, et al, (2010), *The Demographics of Empire: The Colonial Order and the Creation of Knowledge*, Ohio University Press, pg.75

⁸⁵ Pew Research Center, (2014), "Global views on morality - abortion", <<http://www.pewglobal.org/2014/04/15/global-morality/table/abortion/>>, accessed 10/12/2016

imperialism'⁸⁶. The continuation of this moral and cultural imperialism abuses a basic rule of international bilateral relationship between countries as per international norms. It is contradictory to international norms and a disrespect to bilateral relationships for western nations to fund such organizations that are exercising cultural imperialism⁸⁷.

It is also illogical and hypocritical for the organizations that have been implicated in carrying out illegal abortions in Africa to pretend to be suddenly standing for 'reproductive healthcare' in the same countries where they have carried out illegal abortions. This engagement in illegal abortions has been registered in local courts of law, for example some former staff members of Marie Stopes International in Uganda have sued the organization for carrying out these abortions. The accusation of engaging in illegal abortions has not only been leveled against organizations like MSI in Uganda alone but also in other African countries like Zambia⁸⁸. Besides the problems of undermining bilateral relationships between countries and carrying out abortions illegally, campaigning to promote abortion is an affront on African indigenous culture. In African culture the birth of life is traditional celebrated as a gift and not taken as a problem to get rid of. To promote abortion is therefore to undermine the cultural perspectives of African people.

d) Sex-Selective Abortions

When nations, particularly developing nations, liberalize their abortion laws, baby girls are often targeted, and the female population significantly decreases. Professor Lynne Marie Kohm, a professor at Regent University School of Law, wrote on the topic as follows:

Most sociological polling research on birth order preference strongly suggests that because males are preferred as first borns, female babies will be the first to be reduced. Indeed, this has already occurred in many Asian nations. Sex selection abortion and female infanticide are widely known to be the most utilized method of family planning in India, China and many other Asian countries. In these countries, sex selection abortion contributes to an already unbalanced sex ratio occasioned by neglect of female children. "Due to inadequate care afforded to female children and to women, an estimated sixty million to one hundred million women are 'missing' from the world's

⁸⁶ Obianuju Ekeocha, (2017), "It's time we 'gagged' the global abortion movement's attack on Africans", <<https://www.lifesitenews.com/opinion/gag-rule-or-good-news>>, accessed 01/03/2017

⁸⁷ Jonathan Abbamonte, (2016), "Obama administration gave over \$340 million to UNFPA", <<https://www.pop.org/content/obama-administration-gave-over-340-million-unfpa>>, accessed 01/03/2017

⁸⁸ Xinhua, (2012), "Zambia orders American firm to stop conducting abortions", <<http://www.globaltimes.cn/content/723492.shtml>>, accessed 25/02/2017

population, including twenty-nine million in china and twenty-three million in India."⁸⁹

Even if sex-selective abortions are made illegal, there is a great risk that sex-selective abortions will continue to proliferate, as in India. In India, sex-selective abortions were made illegal by statute in 1994, but this law has not been implemented and enforced. According to one source, "[i]n one hospital in Punjab, in northern India, the only girls born after a round of ultrasound scans had been mistakenly identified as boys, or else had a male twin."⁹⁰ Liberalizing abortion laws endangers females by incentivizing son preference and perpetuates societal injustices against women.⁹¹ There are already significantly fewer females than males, with at least 65 million fewer girls than boys under the age of 14 in the world today.⁹² Uganda should not promote this devaluation of women which commonly occurs when abortion is legalized.

d) When nations legalize it abortions increases are than decrease

Pro-choice groups often state that abortion should be "safe, legal and rare."⁹³ In other words, they claim that abortion must be legalized to protect women's health, but that it should remain sparingly used. This claim is inconsistent, contrary to the evidence, and insincere. First, legal and rare are inconsistent. When the government chooses to legalize something, the government is making a moral choice that such action is permissible. Legalization communicates a powerful message to the citizenry that taking that action is morally permissible. Accordingly, the mantra that abortion, once legalized, will remain rare is logically inconsistent. This is particularly true considering that abortion advocates never advocate for abortion only when necessary to protect the life of the mother. Instead, abortion advocates claim that abortion should be permitted virtually on demand. Legalization, therefore, will

⁸⁹ Lynne Marie Kohm, *Sex Selection Abortion and the Boomerang Effect of a Woman's Right to Choose: A Paradox of the Skeptics*, 4 W. & M. J. Women & Law 93 (quoting Dorothy C. Wertz, *International Perspectives on Ethics and Human Genetics*, 27 Suffolk U. L. Rev. 1411, 1432 (1993)).

⁹⁰ *The Worldwide War on Baby Girls: Technology, Declining Fertility and Ancient Prejudice are Combining to Unbalance Societies*, ECONOMIST, Mar. 4, 2010, at 3, <http://www.economist.com/node/15636231>.

⁹¹ Lynn Marie Kohm, *The Challenges of Teaching Gender Equality in a World of Reproductive Gendercide*, REGENT J. L. & PUB. POL'Y 1, 2 (2013).

⁹² CIA World Factbook, Population of the World Divided by Age Structure:

0-14 years: 25.44% (male 963, 981, 944/female 898, 974, 458)

15-24 years: 16.16 % (male 611,311,930/female 572, 229, 547)

25-54 years: 41.12 % (male 1,522,999,578/female 1,488,011,505). *Id.*

This chart shows 65 million more males than females between 0-14 years and 39 million more males than females between 15-24 years throughout the world. *Id.*

⁹³ E.g., *Hilary Clinton Tweaks Her 'Safe, Legal, Rare' Abortion Mantra*, LA Times (Feb. 9, 2016), <http://www.latimes.com/opinion/opinion-la/la-ol-hillaryclinton-abortion-campaign-20160209-story.html>.

drastically increase abortion because it will become regularly available and socially acceptable.

Second, and most importantly, the statistics from countries around the world affirmatively bear this truth out. Statistics affirmatively prove that when a nation first legalizes abortion, abortions increase rapidly and never again become rare, unless the nation takes drastic legal action to highly restrict it. In a recent, ground-breaking study called the Worldwide Abortion Report, Thomas Jacobson, M.A., and Wm. Robert Johnston, Ph.D., meticulously documented the statistics regarding the policies and numbers of abortion occurring in 100 nations and other regions during the 1800s and 1900s.⁹⁴ The authors note that the “Report will be useful for nations who prohibit abortion, giving them an abundance of reasons why they should preserve their good policies protecting human life, and not make the same mistake as the United States and most other nations.”⁹⁵ In their Findings Summary and Recommendations Paper, Jacobson and Johnston made the following key findings relevant to the claim that abortions can remain “rare” after legalization:

- 4. When a government authorizes abortion, abortions often increase rapidly to near-peak levels within 5-25 years
- 7. In the absence of policy changes, the level of abortions in a country tends to be stable or change slowly.
- 8. Policy changes of limited scope occurring after abortions reach peak levels usually have much less impact than initial policies.
- 11. Once a government authorizes abortion, it never becomes rare, unless they again prohibit or highly restrict it.
- 12. Government policies, including both laws themselves and the level of enforcement, profoundly affect the level of abortion (excepting limited variations of policy).
- 18. Most of the 60 nations that still prohibit abortion are majority Christian.⁹⁶

⁹⁴ Thomas W. Jacobson, M.A., and Wm. Robert Johnston, Ph.D; Abortion Worldwide Report: Executive Summary (25 Jan 2017), http://media.wix.com/ugd/cacd2b_764ee622b1ab4defa7ec36dbc82288d8.pdf. The full report can be found [here](#).

⁹⁵ *Id.*

⁹⁶ Thomas W. Jacobson, M.A., and Wm. Robert Johnston, Ph.D; Abortion Worldwide Report: Part VIII, Findings Summary and Recommendations (25 Jan. 2017), available at http://media.wix.com/ugd/cacd2b_2c1739f698474b5ca09e7e05d4f0981b.pdf.

Based on these findings, rooted in factual evidence, Uganda must not believe the lie that abortion will remain rare once legalized. Uganda should also take heart that it stands among good company in continuing to prohibit abortion.

Finally, the claim that abortion advocates want abortion to remain rare seems insincere. Consider a recent news story in the United States. In February 2017, Lila Rose, founder and president of the pro-life group Live Action, republished an “Award Certificate” that was given by Planned Parenthood⁹⁷ to one of its Colorado affiliates in 2013.⁹⁸ The award certificate was given to that office “for exceeding abortion visits first half of FY12 Compared to FY13.”⁹⁹ Shockingly, Planned Parenthood confirmed the validity of the award, saying that while it does not have “quotas,” “we absolutely do celebrate our progress in ensuring that more people have access to the full range of reproductive health care, including abortion. And we always will.”¹⁰⁰ But Live Action, through interviews with former Planned Parenthood staff members, confirmed that Planned Parenthood offices do in fact have abortion quotas:

Every center had a goal for how many abortions were done, so we were very goal-oriented,” Sue Thayer, a former Planned Parenthood manager, said. “I trained my staff the way that I was trained, which was to really encourage women to choose abortion, to have it at Planned Parenthood, because that counts – you know – towards our goal.”¹⁰¹

And according to a former Planned Parenthood nurse, Marianne Anderson, “‘I felt like I was more of a salesman, sometimes, to sell abortions,’ Anderson said. ‘We were constantly told, ‘You have quotas to meet to stay open.’ ... We were told on a regular basis that, ‘You have a quota to meet to keep this clinic open.’”¹⁰² While some might argue that this is only what happens in the United States and that it would never happen in Uganda, that claim is false. The statistics documented in the Worldwide Abortion Report clearly show that when abortion is legalized, it increases rapidly, regardless of which nation it occurs in. And because abortion is the top-money maker for groups like Planned Parenthood, it will never remain rare.

⁹⁷ Planned Parenthood, the largest abortion provider in the United States, was founded by eugenicist Margaret Sanger.

⁹⁸ Luke Faulkner, *Planned Parenthood’s abortion quota certificate proven authentic – by Planned Parenthood*, Live Action News, (10 Feb 2017), <http://liveactionnews.org/planned-parenthoods-abortion-quota-certificate-proven-authentic-by-planned-parenthood/>.

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² *Id.*

e) Medical and Psychological Reasons

Medical evidence, although ignored by pro-choice groups, indisputably demonstrates that human life begins at conception. If that is the case, abortion is nothing less than the unlawful killing of a human being. But not only does abortion result in the killing of an innocent human being, it also has significant harmful effects on the mother—the second victim of abortion. Abortion advocates ignore this evidence completely.

i. The Unborn Child

1. At conception

Medical evidence establishes that a new human being is formed at conception. The San Jose Articles¹⁰³ state it as follows:

“Conception” (fertilization) is the union of an oocyte and sperm cell (specifically, the fusion of the membranes of an oocyte and spermatozoon upon contact) giving rise to a new and distinct living human organism, the embryo. The embryo exists when the gametes no longer exist, their genetic material having contributed to the formation of the new individual generated by their union. See, e.g., Sadler, T.W. Langman’s Medical Embryology, 7th edition. Baltimore: Williams & Wilkins 1995, p. 3 (noting that “the development of a human begins with fertilization, a process by which the spermatozoon from the male and the oocyte from the female unite to give rise to a new organism...”); Moore, Keith L. and Persaud, T.V.N. The Developing Human: Clinically Oriented Embryology, 7th edition. Philadelphia: Saunders 2003, p. 2 (noting that “the union of an oocyte and a sperm during fertilization” marks “the beginning of the new human being.”).

But even if somehow one does not accept the medically-established fact that life begins at conception, other evidence, shortly after conception, affirmatively indicates that unborn children must be protected by law.

ii. Risk to mother

Not only does abortion take the life of an unborn child, it harms women. Abortion advocates couch their arguments in terms of compassion to women. For example, one of the primary arguments in favor of abortion is that without legal, safe access to abortion, women will have

¹⁰³ The San Jose Article are . . . <http://sanjosearticles.com/wp-content/uploads/2012/02/SJA.pdf>.

abortions in any way in an unsafe environment, putting themselves in great risk.¹⁰⁴ And we certainly recognize that many young mothers find themselves in incredibly difficult positions. We do not in any way pretend to dismiss their suffering. However, never is it compassionate to encourage (and law certainly encourages behavior) a mother to kill her own children.

Uganda, as a traditional and largely Christian nation, knows that men and women are both equal, yet are different and have distinct roles. These differences are to be celebrated, not destroyed. There are natural and traditional roles for both sexes; one of the natural biological role of women is to bring new life (through childbirth). Turning mothers against their own children by encouraging them to abort their own babies is devastating to women. It is therefore no surprise, then, that women who have abortions face a number of medical complications. Some of the complications that have observed among women who carry out abortions include the following:

1. Psychological harm and depression
2. Increased risk of opportunistic infections
3. Increased risk of breast cancer
4. Abortion related deaths
5. Increased difficulty in future conception
6. Etc.

Safety is merely the guise for abortion proponents to accomplish their objective: the complete “liberation” of women from having to bear children. Not only does this fly in the face of Uganda’s religious and traditional beliefs about the role of women in society, but it shows that abortion proponents do not care about women’s health. For example, the Center for Health, Human Rights and Development, who is backed by the American-based Center for Reproductive Rights, claims that “[i]n a setting like Uganda, where human resources are constrained, it is only reasonable that skilled and trained mid-level health workers be permitted to provide lawful and safe medical abortions.”¹⁰⁵

¹⁰⁴ <http://www.cehurd.org/wp-content/uploads/downloads/2016/10/Facing-Ugandas-Law-on-Abortion-Experiences-from-Women-and-Service-Providers-in-Uganda-1.pdf>

¹⁰⁵ Facing Uganda’s Law on Abortion 12 (July 2016).

7.0 Conclusions and Recommendations

From our extensive research and analysis we conclude that Uganda should not change here laws that regulate abortion because there is are no sustainably justifiable reasons for doing. Our overall recommendation is that the government of Uganda refrains from the liberalization of the abortion laws in the country and instead strengthens them in order to protect the vulnerable unborn children and the future of the family which in turn will build and strengthen our nation. In addition, we recommend the following:

- f) That the government urgently commences work towards the enactment of a law that will legally protect the family from undue pressures; it could tentatively be titled: 'TRADITIONAL FAMILY VALUES PROTECTION BILL'
- g) That the government establishes a specialized, FAMILY SAFEGUARD DEPARTMENT / UNIT in a relevant ministry in order to monitor the Ugandan family
- h) That the government establishes and vigorously enforces requirements for ministerial office to periodically report on how their ministry activities are impacting the Ugandan family
- i) That funds that are disbursed from the central government to the regional or local governments to be preconditioned on assessment of how they build and strengthen the Uganda family
- j) That the data usually presented in reports promoting the liberalization of abortion laws be subjected to a thorough test of factuality, biased analysis, among others to establish authenticity

8.0 Sources:

African Charter on Human and Peoples' Rights, (Adopted 27 June 1981, OAU Doc. CAB/LEG/67/3

African Commission on Human and Peoples' Rights, Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa. Available at:
<<http://www.achpr.org/instruments/women-protocol/>>

American Pregnancy Association, (2016), "Abortion Emotional Side Effects", AMER. PREGNANCY ASS'N, <<http://americanpregnancy.org/unplanned-pregnancy/abortion-emotional-effects/>>

Brian Hogan & J.C. Smith, (1996), *Criminal Law: Cases and Materials*, BUTTERWORTHS 6th Ed., at 396 (1996).

Buerghenthal, et al, (2003), *International Human Rights in a Nutshell*, West Publishing Co

Byrsk, A., ed., (2002), *Globalization and Human Rights*, University of California Press

Catholic Bishops' Conference of Uganda, (2006), *An Open Letter to the Government and People of Uganda*, Catholic Bishops' Conference of Uganda, Jan. 19, 2006,
<<http://www.ewtn.com/library/BISHOPS/letterbpsuganda.htm>>

Center for Reproductive Rights, (2016), *Facing Uganda's Law on Abortion*, Center for Reproductive Rights, July 2016

Centre for Reproductive Rights, (2011), *Safe and Legal Abortion is a Human Right*, CTR. REPROD. RTS, Oct. 2011, Table I. Available at:
<https://www.reproductiverights.org/sites/crr.civicactions.net/files/documents/pub_fac_safeab_10.11.pdf>

Centre for Reproductive Rights, (2014), *Reproductive Rights Under the Convention on the Rights of the Child*, CTR. REPROD. RTS., (June 2014). Available at:
<https://www.reproductiverights.org/sites/crr.civicactions.net/files/documents/Wright_Glo%20Adv_7.15.14.pdf>

CIA World Factbook, Population of the World Divided by Age Structure

Conde H.V., (2004), *A Hand book of international Human Rights Terminology*, University of Nebraska Press

Diener A., (1987), *Philosophical Foundations of Human Rights*, United Nations Educational

Donnelly J., (2002), *Universal Human Rights in Theory and Practice*, Cornell University Press

Dworkin R., (1997), *Taking Rights Seriously*, Harvard University Press

ENCYCLOPEDIA BRITANNICA, (2017), Uganda: Religion,
<<https://www.britannica.com/place/Uganda/Religion>> (last visited Feb. 13, 2017)

Ernie S. Walton, (2015), *Ireland's Abortion Prohibition Does Not Violate International Human Rights Law*, CNSNews.com (June 19, 2015), <<http://www.cnsnews.com/commentary/s-ernie-walton/irelands-abortion-prohibition-does-not-violate-international-human-rights>>

Gonsalves M., ed., (1989), *Fagothey's Right and Reason*, Prentice Hall

Government of Uganda, (1950), *Penal Code Act of 1950*, Entebbe, Uganda

Government of Uganda, (1995), *Constitution of the Republic of Uganda*, (1995).

Hayden P., (2001), *The Philosophy of Human Rights*, Paragon House Publishers

International Planned Parenthood Federation, (1984), *Human Right to Family Planning*, International Planned Parenthood Federation

Ishay M., (2009), *The History of Human Rights: From Ancient times to the Globalization Era*, California University Press

Jonathan Abbamonte, (2016), "Obama administration gave over \$340 million to UNFPA", <<https://www.pop.org/content/obama-administration-gave-over-340-million-unfpa>>, accessed 01/03/2017

Karel Vasak, (1977), "Human Rights: A Thirty-year struggle: the sustained efforts to give force of law to the Universal Declaration of Human Rights", *UNESCO Courier*, No. 30

Karl Ittmann, et al, (2010), *The Demographics of Empire: The Colonial Order and the Creation of Knowledge*, Ohio University Press, pg.75

LA Times, (2016), "Hilary Clinton Tweaks Her 'Safe, Legal, Rare' Abortion Mantra", LA Times (Feb. 9, 2016), <<http://www.latimes.com/opinion/opinion-la/la-ol-hillaryclinton-abortion-campaign-20160209-story.html>>

Lauren Gordon, (2003), *The Evolution of International Human Rights*, University of Pennsylvania Press

Lewis C.S, (1943), *The Abolition of Man*, Oxford University Press

Luisa Blanchfield, (2006), *The United Nations Convention on the Rights of the Child*, at 13, C.R.S. R40484, <https://fas.org/sgp/crs/misc/R40484.pdf>.

Luke Faulkner, (2017), *Planned Parenthood's abortion quota certificate proven authentic – by Planned Parenthood*, Live Action News, (10 Feb 2017), <<http://liveactionnews.org/planned-parenthoods-abortion-quota-certificate-proven-authentic-by-planned-parenthood/>>

Lynn Marie Kohm, (2013), "The Challenges of Teaching Gender Equality in a World of Reproductive Gendercide", REGENT J. L. & PUB. POL'Y 1, 2 (2013).

Lynne Marie Kohm, (2014), "Sex Selection Abortion and the Boomerang Effect of a Woman's Right to Choose: A Paradox of the Skeptics", 4 W. & M. J. Women & Law 93 (quoting Dorothy C. Wertz, *International Perspectives on Ethics and Human Genetics*, 27 Suffolk U. L. Rev. 1411, 1432 (1993)).

Martin Semalulu Nsibirwa, (2004), "A Brief Analysis of the Draft Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women", *African Human Rights Law Journal*, 40, 53 (2001)

Mary Eberstadt, (2013), *How the West Really Lost God: A New Theory of Secularization*, Max Roser, (2016), "Fertility", <<https://ourworldindata.org/fertility/>>, 11/07/2016, accessed 12-03-2017

Obianuju Ekeocha, (2017), "It's time we 'gagged' the global abortion movement's attack on Africans", <<https://www.lifesitenews.com/opinion/gag-rule-or-good-news>>, accessed 01/03/2017

Orend B, (2002), *Human Rights: Concept and Context*, Broad View Press
Pew Research Center, (2014), "Global views on morality - abortion", <<http://www.pewglobal.org/2014/04/15/global-morality/table/abortion/>>, accessed 10/12/2016

Piero A. Tozzi, (2010), *International Law and the Right to Abortion*, International Law Group Organizations, Legal Studies Series Number One, at 17 (2010).

Polly Vizard, (2006), *Poverty and Human Rights: Sen's 'Capability Perspective' Explored*, Oxford University Press

Population Research Institute, (2016), "Abortion for all: How the International Planned Parenthood Federation promotes abortion around the world", available at: <<https://www.pop.org/content/abortion-for-all-how-the-international-planned-parenthood-federation-promotes-abortion-around-the-world-894>>, accessed 01/03/2017

Samantha Singson, (2007), "Pakistan Tells Pro-Abortion UN Committee that 'Abortion is Murder,'" , *Friday Fax*, May 31, 2007, available at <http://www.c-fam.org/publications/id.516/pub_detail.asp>

Sarah MacDonald, (2017), "New video exposes Marie Stopes' abortion 'mission' in Africa", <<https://www.catholicireland.net/new-video-exposes-marie-stopes-abortion-mission-africa/>>, accessed 01/03/2017

Shivji, I.G, (1989), *The Concept of Human Rights in Africa*, Oxford, African Books Collective

Starrs M. Ann, (2006), "Safe Motherhood Initiative: 20 years and counting", *Lancet*, 368; 1130-45

The Christian Institute, (2017), "British taxpayers funding illegal abortions in Africa", <<http://www.christian.org.uk/news/british-taxpayers-funding-illegal-abortion-africa/>>, accessed 01/03/2017

The Holy Bible

Thomas W. Jacobson, & Robert Johnston, (2017), *Abortion Worldwide Report: Part VIII, Findings Summary and Recommendations* (25 Jan. 2017), available at <http://media.wix.com/ugd/cacd2b_2c1739f698474b5ca09e7e05d4f0981b.pdf>

United Nations, (1948), *Universal Declaration of Human Rights* (Dec. 10, 1948).

United Nations, (1976), *International Covenant on Civil and Political Rights*, Preamble, UNTS, Vol. 999, No. 14668, at 172 (1976),

United Nations, (1976), *International Covenant on Economic, Social and Cultural Rights*, UNTS, Vol. 993, No. 14531, (1976) *adopted* Dec. 16, 1966

United Nations, (1990), *Declaration of the Rights of the Child; Convention on the Rights of the Child*, adopted Nov. 20, 1989, (entered into force Sept. 2, 1990).

United Nations, (1997), "Human Rights: A Compilation of International Instruments", Regional Instruments, Vol. 11, United Nations Publications, Geneva

Vienna Convention on the Law of Treaties, art. 1(d) (23 May 1969).

Xinhua, (2012), "Zambia orders American firm to stop conducting abortions", <<http://www.globaltimes.cn/content/723492.shtml>>, accessed 25/02/207

Internet:

<http://media.wix.com/ugd/cacd2b_fa8b842b56e148e984089b091f1610fd.pdf>

<<http://www.peaceau.org/uploads/special-rapporteur-on-rights-of-women-in-africa-presentation-for-csw-implementation.pdf>>

<<http://sanjosearticles.com/wp-content/uploads/2012/02/SJA.pdf>>

<http://www.amnestyusa.org/sites/default/files/she_is_not_a_criminal_-_embargoed_09_june.pdf>

<<http://www.cehurd.org/wp-content/uploads/downloads/2016/10/Facing-Ugandas-Law-on-Abortion-Experiences-from-Women-and-Service-Providers-in-Uganda-1.pdf>>

<<http://www.icj-cij.org/docket/files/141/15987.pdf>>